UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL

E/CN.4/Sub.2/1995/SR.4
8 August 1995

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS

SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND
PROTECTION OF MINORITIES

Forty-seventh session

SUMMARY RECORD OF THE 4th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 2 August 1995, at 10 a.m.

Chairman: Mr. MAXIM

later: Mr. GUISSÉ

CONTENTS

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING POLICIES OF RACIAL DISCRIMINATION AND SEGREGATION AND OF APARTHEID, IN ALL COUNTRIES, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES: REPORT OF THE SUB-COMMISSION UNDER COMMISSION ON HUMAN RIGHTS RESOLUTION 8 (XXIII) (continued)

ORGANIZATION OF WORK

This record is subject to correction

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent within one week of the date of this document to the Official Records Editing Section, room E.4108, Palais des Nations, Geneva.

Any corrections to the records of the public meetings of the Sub-Commission at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

GE.95-13212 (E)

The meeting was called to order at 10.15 a.m.

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING POLICIES OF RACIAL DISCRIMINATION AND SEGREGATION AND OF APARTHEID, IN ALL COUNTRIES, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES: REPORT OF THE SUB-COMMISSION UNDER COMMISSION ON HUMAN RIGHTS RESOLUTION 8 (XXIII) (agenda item 6) (continued) (E/CN.4/Sub.2/1995/8 and 41; E/CN.4/Sub.2/1995/NGO/3; E/CN.4/1995/55)

1. Mr. PONRAJAH (International Educational Development) expressed grave concern at the increasing impunity with which the Sri Lankan authorities continued to commit gross and inhuman violations of the human rights of the Tamil people. Such violations had become a way of life for the Sri Lankan armed forces and its paramilitary home guard. His organization noted with regret that attempts by the Sri Lankan Government to address international criticisms of its human rights record had been of a largely cosmetic nature.

2. International Educational Development was particularly concerned at the genocidal onslaught which had beer launched by Sri Lanka in May, June and July 1995 on the Tamil people in the Tamil homeland. In early July alone, 245 Tamil civilians, including around 100 women and children, had been killed and 750 had been injured. Indiscriminate and continued night shelling of Tamil villages in the north had forced tens of thousands of Tamil civilians to evacuate their homes. High-flying supersonic jets had bombed villages indiscriminately and in addition had targeted temples, places of worship and schools. Sellachennathy Hindu Temple, as well as St. Peter's Church and St. Peter's School in Navaly had been deliberately bombed on 10 July 1995; in the latter case the death toll had risen to 120. Such aerial bombings of civilian population centres and places of worship followed a pattern set by the Sri Lankan armed forces over the past several years and President Kumaratunga's belated promise to investigate the recent violations must ring hollow in the ears of the Tamil people.

3. The Sri Lankan Government had also imposed a total economic blockade on the transport to the north of goods, including supplies of essential food and medicines. Hundreds of Tamil civilians lay injured in Jaffna Hospital without treatment.

4. International Educational Development condemned the actions of the Sri Lankan Government as a gross violation of human rights and humanitarian law, intended to terrorize and subjugate the Tamil people. It urged the adoption of a resolution on Sri Lanka which would censure the continued violation of human rights and humanitarian law by the Sri Lankan authorities, call upon Sri Lanka to lift the economic blockade, and take a decision to monitor the situation of human rights in Sri Lanka as a matter of grave urgency.

5. The human rights situation in Guatemala continued to be very serious with a recent escalation of cases of extrajudicial executions, attacks and death threats, torture and enforced or involuntary disappearances. The United Nations Mission for the Verification of Human Rights and compliance

with the Comprehensive Agreement on Human Rights in Guatemala had reported a deterioration of the situation between 31 March 1995 and the beginning of the election process.

6. Possibilities for improving the human rights situation in Guatemala depended basically on the continuation of the negotiating process between the Government and army of Guatemala and the Guatemalan National Revolutionary Unity and on the general elections to be held on 12 November 1995. It was therefore important that the international community should continue to support the negotiating process and send international observers to Guatemala in order to guarantee a free, fair and transparent election process.

7. Mr. NGAWANG CHOEPHEL (International Association of Educators for World Peace) regretted that, as the United Nations approached its fiftieth anniversary, the question of Tibet had not been resolved nor an end made to the atrocities perpetrated there by the Chinese authorities. If the United Nations and its human rights mechanisms could not protect the weak and the oppressed, who would bring justice on the planet?

8. Following the massacres in the 1960s and 1970s, another form of genocide, ethnic genocide was currently taking place in Tibet, through forced birth-control programmes for Tibetan women. At the same time the Tibetan plateau was being filled with millions of Chinese settlers. The policy was changing the whole demography of the sacred land of Tibet, which was fast becoming a Chinese colony.

9. Moreover, the Chinese authorities had confirmed that the number of political arrests had been increasing in recent years, in both townships and the countryside. At least 123 people, including 50 nuns and 68 monks, had reportedly been arrested in connection with peaceful pro-independence activities in Tibet during the first quarter of 1995.

10. Further, tensions were mounting in Tibet following the proclamation by the Dalai Lama in India of a six-year-old Tibetan boy in Tibet as the eleventh Panchen Lama. A statement by the Dalai Lama had stressed that the matter was a religious, not a political one. A few days later, the new Panchen Lama, his parents and elder brother had disappeared and were reported to be currently under house arrest in Beijing. The young Panchen Lama was the second highest spiritual leader of the Tibetan people and should be enthroned at the Tashi Llunpo Monastery in Shigatse in central Tibet. Reports had however been received that the Chinese authorities had started a fresh crack-down in Tibet to force Tibetans, including many senior leaders and spiritual masters, to denounce the Dalai Lama's proclamation openly. Political meetings had been called in monasteries and nunneries. Troops had already stormed the Tashi Llunpo Monastery while all foreign tourists had been expelled from Shigatse which was reportedly under virtual martial law. Further discussion regarding the recognition of the young Panchen Lama inside Tibet had been made a criminal offence. The Chinese authorities had always tried to politicize the institution of the Panchen Lama so as to create a division within Tibetan society and as a way to whittle down the authority of the Dalai Lama. China had rejected the Dalai Lama's recognition of the reincarnation of the tenth Panchen Lama.

11. The International Association of Educators for World Peace was concerned that, for the past two months, the Chinese authorities had failed to release any information about the well-being and whereabouts of the Panchen Lama, his family and others. It therefore urged the Chinese Government to release the Panchen Lama immediately so that he could begin his religious studies at the Tashi Llunpo Monastery. If the Chinese Government genuinely wished to promote and protect religious freedom in Tibet, it must recognize that Communist ideology, which was atheistic in nature, should not attempt to be the authority over the ancient religious traditions of Tibetan Buddhism.

12. Ms. LITTLE (Andean Commission of Jurists) said that a combination of factors seemed to condition the responses of the Andean States when an official was responsible for a violation of human rights. Those factors included a difficult relationship with the armed forces and their role in everyday social life, the inability of States to control the areas most distant from the national political decision-making centre, and the persisting economic, social and ethnic differences between people.

13. The reality of social and/or political violence in most of the countries of the area was a challenge to law and order and, on occasion, produced an inadequate response from Governments. The state of law was accordingly restricted so that citizens were deprived of many fundamental guarantees for the protection of their rights.

14. Civil and political rights in the region were threatened by a number of extremely serious problems. Abuse of power continued to be the hallmark of many of the activities of the security forces. Arbitrary detentions had escalated while impunity continued to be the rule in most of the Andean countries. Those practices represented not only serious violations of human rights but also formed part of a deplorable discrimination which weighed most heavily on the poorest sectors of society.

15. For a long time, the climate of violence had been a chronic phenomenon in Colombian society and there had been no major change notwithstanding the current peace negotiations between the Government and the guerrillas. Non-governmental organizations had reported that, between January and March 1995, there had been 183 political assassinations, 39 forced disappearances, 55 claims of torture and 306 arbitrary detentions. In that context the so-called "rural security associations" which had been set up at the beginning of the year to combat the guerrillas and paramilitary activities had become a matter of concern. The Ombudsman had expressed the view that they were contrary to international humanitarian law. While there had been some positive developments, impunity continued to have an adverse impact in the case of the great majority of human rights violations.

16. During the last session of the Commission on Human Rights, the Colombian Government had issued a statement in which it had undertaken to adopt a number of measures for the protection and promotion of human rights, including invitations to a number of United Nations thematic rapporteurs. It was important that the Sub-Commission should monitor compliance with those undertakings and with the various recommendations which had been submitted to the Colombian Government.

17. In Peru, political violence continued at the same level as in 1994, with a slow and gradual reduction in its incidence, although there were still patches of terrorist activities. The Shining Path continued to employ methods prohibited by international humanitarian law, such as the use of car bombs in the city of Lima. Information from non-governmental organizations indicated that, during the first five months of 1995, there had been 193 deaths due to political violence, including 112 political assassinations carried out by terrorist groups. The same sources had reported 10 cases of enforced disappearance and three extrajudicial executions. More than half the population was affected by the state of emergency and torture continued to occur in both official and unofficial detention centres. A major event during the period had been the promulgation of an amnesty law for which military, police and civil personnel involved in serious violations of human rights were eligible.

18. The Peruvian Government in recent years had reiterated that it was firmly committed to punishing persons responsible for violations of human rights. Her organization believed that it would be difficult for the Peruvian Government to comply with that undertaking. The situation in Peru called for closer monitoring by the Sub-Commission.

19. Mr. GUISSÉ said that the world in 1995 differed greatly from that which the international community had promised after the Second World War. None of the promises contained in the Charter of the United Nations had been kept; the spectre of war haunted cities and homes. Armed conflicts had broken out as a result of practices such as intolerance, exclusion and lack of respect for human rights, which the world had believed had disappeared forever. The problems of former Yugoslavia and Rwanda were striking examples. The only crime of which the thousands of victims of those conflicts were guilty was that of being different and of seeking a little understanding, dignity and tolerance. Those conflicts had laid bare the shortcomings of the United Nations which was based on the political will of Governments which held the real power internationally.

20. The time had come to reflect once again on the means, policies and procedures which the United Nations must employ in order to achieve success in settling disputes. Such rethinking must be undertaken without complaisance by organs such as the Sub-Commission which was responsible for combating discrimination and protecting minorities.

21. Member States must respect their international commitments out of respect for the peoples which accepted their authority. There must be mutual confidence within the international community of States.

22. The current situation was to a large extent the responsibility of the great Powers which alone possessed arms industries, which sat on the Security Council and which were the guarantors of the world's security. What was happening currently in Bosnia would happen elsewhere if the egoism and hypocrisy of member States were not curbed. The year 1995 had already been marked by the greatest number of death sentences and executions; many more individuals under sentence of death awaited execution some time in the future. What made that situation even more unacceptable was that such sentences were

frequently handed down as a result of improper legal processes or of confessions extracted under torture. States of emergency and emergency legislation had always represented tools of dictatorship.

23. Massive violations of human rights were not only seen in Bosnia and Rwanda but also in other countries where there was a failure to recognize the most important right, the right to life.

24. More thought should be given to economic, social and cultural rights in addition to civil and political rights. If such rights were to become a reality, the world economic order must first be considered. There was general agreement that the current world economic order was unjust and had never served any purpose except to make a handful of individuals richer and the overwhelming majority of the world's population poorer. The situation in the third world was unacceptable and in Africa each day thousands of individuals crossed the threshold of absolute poverty or died of hunger.

25. The United Nations was clearly in a bad way and efforts to restore its credibility must go further than the adoption of mere resolutions. There was a need to stress the rehabilitation of the Organization. The transnational nature of human rights must override the selfish interests of individual States if individuals everywhere were to achieve the full enjoyment of human rights.

26. Mr. LINDGREN ALVES said that when the idea of bringing item 6 forward in the Sub-Commission's schedule had been first suggested in 1994, some had tended to interpret it as a move to restrain the activities and thereby the influence of the non-governmental organizations. In his opinion, the experiment which the Sub-Commission was currently conducting had already produced at least one very positive result for the NGOs themselves in that by being the very first to take the floor, at the start of the Sub-Commission's work, they were undoubtedly being heard.

27. Two NGO statements had seemed extremely relevant to him, namely, those of Pax Christi and the International Association for the Defence of Religious Freedom. Pax Christi had been the first to call the Sub-Commission's attention, in eloquent terms, to the significance of Mr. Tadeusz Mazowiecki's resignation as Special Rapporteur on the Situation of Human Rights in the Territory of the Former Yugoslavia. There was no denying that not only the activities of the Sub-Commission but also the whole international system for the protection of human rights looked insignificant, not to say paltry, in the face of the horrors witnessed in Bosnia. Nevertheless he could only extend his support to Mr. Bengoa's proposal, although he fully realized the negligible effect it would have on those to whom it was directed. He also seconded Mr. Bossuyt's remark that the situation in Bosnia seemed graver than that of Rwanda one year ago only to the extent that in the former Yugoslavia violations of human rights and international law were taking place in front of United Nations troops and before the eyes of the world. If, in addition to that, one considered the possibility of new genocides in Rwanda itself as well as in Burundi, the reality would look bleaker still.

28. The International Association for the Defence of Religious Freedom had brought out another aspect of contemporary reality that tended to be put on one side because the international community simply did not know how to deal with it, namely, intolerance and hatred disguised in the form of religious fundamentalism. He thought it necessary to mention the notion of disguise because everyone was aware that no "fundamentals" of any of the great religions advocated acts of terrorism or the persecution of minorities. The suggestion by the International Association for the Defence of Religious Freedom that an international conference on tolerance should be convened, had reminded him that in 1994, when a first draft had been proposed to the Sub-Commission on the idea of a conference on contemporary forms of racism and xenophobia to complete the current sequence of world gatherings convened by the United Nations, that draft had proposed a conference on tolerance, against contemporary forms of ethnic prejudice. Although the word "tolerance" had been dropped in the final text of the Sub-Commission's resolution, the idea still pervaded the theme suggested for such a conference, currently before the General Assembly. No doubt the tolerance that was then envisaged did not refer specifically to the religious connotations of the term. Those could not be dealt with by a meeting of government representatives. They required much more, namely, the mobilization of consciences.

29. From the inception of the United Nations until the present time, with particular emphasis during the cold war, people and organizations concerned with human rights had fought against the tyranny of States and the flouting of fundamental freedoms by authoritarian regimes. What was involved, essentially was a bid for democracy. The most positive aspect of the contemporary world was widely acknowledged to be the establishment of democratic Governments in most parts of the planet; a case in point was Latin America. Now that democratic Governments had succeeded dictatorships, some NGOs and other human rights activists still made the same kind of accusations they had formerly levelled against dictatorial regimes, as if the democratic Governments they were currently accusing had not been the first to face difficulties in their own struggle to make human rights prevail.

30. He was not seeking to deny the importance of denunciations of violations of human rights wherever they might occur. As far as democratic Governments were concerned however, mere denunciations were neither just nor effective. Direct dialogue, cooperation and partnership were fundamental. He sincerely hoped that NGOs, both national and international, United Nations bodies, the Commission on Human Rights and the Sub-Commission would give that fact the consideration it deserved.

31. Mr. KHALIFA observed that while the competition of the cold war had actually spurred considerable progress in human rights, the bright period in the human rights struggle was now over and virtually all the achievements since the end of the Second World War had been undone. The madness of greed, the arrogance of power and the revival of ugly racial, ethnic and religious intolerance had pushed the world into an inferno of little, scattered wars. It seemed that no one really cared any more about slaughters, atrocities and famines. Approximately 30 wars were currently being fought, almost none of them between States, and the main focus was on specific national situations viewed from a political perspective and in the context of major Power interests.

32. The members of the Sub-Commission should always ask themselves honestly, when facing the eternal dilemma of politics and human rights, whether they were not perhaps being too political. Human beings - the innocents who were always the sure losers - should be their first concern. One need only think of the people caught in the cross-fire in situations like those in Bosnia and Herzegovina, Chechnya, Kashmir, Burundi, Rwanda or Sri Lanka.

33. Bosnia, where violent death at the hands of the Serb leadership had become a way of life, would never be forgotten or forgiven and would forever remain a skeleton in the closets of many European Powers. The Bosnian Government had been pressured from the first to accept defeat and now, with the concurrence of the United Nations, some of the major Powers were apologetically bowing to a fait accompli. Aggression had been legitimized, hostage-taking had been proved effective and ethnic cleansing had become acceptable. The systematic extermination of a people and a culture had gone unpunished and unstopped. How could the whole international community be so impotent, and how could such atrocities be committed on the eve of the twenty-first century? The United Nations Rapporteur on the Situation of Human Rights in the Territory of the Former Yugoslavia had been right to resign in indignation. What was happening was not war but barbaric banditry: the Serbs were forever branded, and those who stood watching them forever disgraced.

34. In the new Russia, all talk of anti-imperialism and respect for the right of self-determination had been forgotten as it moved to crush Chechnya. The Chechens had as much right as the Georgians, the Ukrainians and other peoples to self-determination; Chechnya was an ex-Czarist, ex-Soviet colony fighting for its independence. The matter was not an internal Russian affair, and that brand of colonialism was out of fashion.

35. The West, in turn, was too busy marketing democracy and free enterprise as human rights goods. No one contested democracy; but democracy could not be waged as one would wage war. Democracy should develop in each country in accordance with its social, cultural and economic needs. The so-called new democracies were generally creating the façade of reform without genuine change: elections were called, then rigged or cancelled; political parties were legalized, then harassed; reforms were announced, but never put into effect. Dictatorship wearing the mask of democracy actually heralded fascism. In addition, organized interest groups had multiplied to the point that they clogged the machinery of democracy in a potentially fatal way.

36. The concept of global free trade, moreover, did not work for weaker economies. It was not conceivable that all countries should be required to open their markets to any and all products even if it destroyed their economies or destabilized their societies. The globalization of national economies amounted to a kind of ideological Western imperialism. Just as socialism had failed, capitalism had thus far failed in the South and in some parts of Latin America and Asia. Capitalism could not be preached without capital. The North/South relationship had become the new line of demarcation, and the human rights movement should concentrate more on that unequal struggle and try to rehumanize the relationship, restore justice, compassion and respect, and play down the language of racism, bigotry and arrogance. Entire peoples, through a neglect of their basic rights and needs and an overemphasis on certain more politically sensitive human rights, were left to rot.

37. The disorderly world that had come into being since the end of the cold war needed redressing. It could not remain unipolar for long. Europe, with less muscle but stronger traditions, would not accept inferiority; Japan and China would not be deterred by intimidation; and the Russian bear, with its huge potential, was still awake. Unfortunately, while human rights deteriorated, the human rights industry kept flourishing. It was now the hottest commodity on the world market, traded with an endless energy supply from invisible powerhouses.

38. Mr. BOSSUYT said that the various United Nations human rights mechanisms had become more sophisticated, more expeditious and less selective, and the United Nations human rights protection system had become better able in the last 30 years to monitor human rights situations in an ever-increasing number of countries.

39. Recent events in Rwanda and in Bosnia and Herzegovina however, had caused immense frustration to those working in the human rights field. In both countries, violations had occurred on a scale rarely seen since the Second World War. A new - and shocking phenomenon was that violations, amounting to a genocide had taken place under the eyes of the United Nations troops in Bosnia and Herzegovina. In Rwanda, more than 5,000 United Nations troops had been present when a premeditated plan of genocide began to be implemented, but most had been withdrawn when the first casualties occurred. It would be difficult to imagine a less appropriate reaction. Hundreds of thousands of Rwandans had subsequently been systematically massacred because of their ethnicity. The United Nations inaction had had unparalleled consequences in Rwanda, but it was not new, for it had been inaugurated in the former Yugoslavia. There, the failure of the international community to react at the outset to the undoubted ethnic cleansing occurring in the war between Serbs and Croats - other than by sending in "blue helmets" with a limited humanitarian mandate - had made the extension of the conflict to Bosnia and Herzegovina inevitable, and United Nations and European Union diplomats were no longer capable of dealing with the resulting conflagration. Indeed, diplomacy was of no avail if it was not prepared to impose, by force if necessary, a viable and fair solution on groups that had learned that they could flout Security Council resolutions with impunity.

40. The role of the United Nations was quite rightly coming under increasing criticism. The confusion that had arisen between humanitarian assistance and the restoration of peace, was an important factor. Humanitarian assistance was not an adequate response in situations where the treatment inflicted on the civilian population was not an unfortunate consequence of the conflict but its deliberate objective.

41. Without an army and a command of its own capable of acting independently of States Members, the United Nations was not a free agent. The States Members, rather than the United Nations, bore primary responsibility for ensuring collective security when aggression was committed by one of them; they could act individually by assisting the attacked State or through the intermediary of the United Nations. Unfortunately, what the States Members had done was to call upon the United Nations as a stratagem to avoid taking action. The spectacle of "blue helmets" standing by helpless in the face of the most serious exactions undermined the credibility of the United Nations

and could seriously impair its ability to act in the future. That was the fault of its States Members, not of United Nations officials. Those developments endangered the very foundation of the Organization and of the system of collective security and of protection of human rights.

42. The International Criminal Tribunal had been at work for more than a year but so far it had done little. In the ongoing conflict in the former Yugoslavia it was admittedly still difficult to assign blame. In the case of Rwanda, on the other hand, the perpetrators of the genocide were known, and the Government was ready to cooperate with the Tribunal. The Tribunal must, however, be given the necessary logistical means, and the countries in which those who had committed the genocide had taken refuge must hand them over to the Tribunal. Unfortunately too many of the States involved had made no move to do so; worse still, the perpetrators of the genocide laid down the law in the camps, for refugees whom they prevented from returning to Rwanda. The camps were thus a potential breeding ground for a future conflict that could engulf Rwanda and spread to Burundi. The Secretary-General had asked for troops to separate those guilty of genocide from the other refugees, but his appeal had gone unheeded.

43. The original Members of the United Nations had sworn to prevent genocide from occurring ever again. Events in Rwanda and in Bosnia and Herzegovina belied that undertaking. In view of the international community's failure to act in the face of resurgent genocide, all the previous accomplishments of the United Nations in the field of human rights might founder. The United Nations must be prepared, even at the cost of great sacrifice, to defend the principles on which it was founded against those who would flaunt them with impunity.

44. Ms. BRIE (France Libertés-Fondation Danielle Mitterrand) recalled that many international bodies and non-governmental organizations had for a number of years been expressing concern at the deterioration in the human rights situation in Turkey. Statements by government representatives tended to confirm the scale of the repression directed against the Kurdish population. In 1994, the Minister for Human Rights had resigned as a result of widespread violations. In October 1994 his successor Mr. Koyluoglu had confirmed that 1,390 villages had been destroyed and accused the Turkish Army of having burned down about 10 villages in the Tunceli region. On 24 June 1995, the Minister of Culture Mr. Erkan Karakas had announced his resignation in protest at the failure of the Government to lift the state of emergency in the Kurdish provinces and to implement the democratic reforms which had been promised. France Libertés-Fondation Danielle Mitterrand wished to register its astonishment at the continuing silence of the Sub-Commission and Commission in the face of such repression, despite the ever-growing number of appeals and eyewitness accounts. It hoped that the Sub-Commission would at long last draw the appropriate conclusions to assist in the protection of fundamental rights in that country.

45. So far, nearly 3,000 villages had been completely destroyed. The most severely affected region in recent months had been that of Tunceli, which had been attacked on 30 March 1995 by a force of 15,000 soldiers. More than 2½ million people throughout the country had been displaced and were now destitute. An article published on 25 July 1995 in Milliyet indicated that

several thousand families had fled and were living in tents in the vicinity of major towns such as Adana. On 20 July 1995, a convoy bringing humanitarian aid to Tunceli had been stopped by the army and food and clothing for the displaced villagers had not been distributed.

46. Prisoners or persons detained for questioning were systematically tortured and several thousand prisoners were said to have gone on hunger strike since 14 July in protest against the conditions in which they were held. On 6 July 1995, several leaders of the HADEP (Social Democratic Populist Party) had been brought before the State Security Court. They included Mr. Hikmet Fidan, Sahabettin Özarslaner, Sehmus Cagro and Ferhan Türk. During the trial, 242 persons who had demonstrated peacefully against the ban on attending the trial had been arrested and detained on the orders of the Procurator General. Also in detention were 15 other persons including Mr. Sirri Sakik, a member of the Turkish Parliament, who had been held for alleged violation of article 8 of the anti-terrorism law.

47. On 16 May 1995, the police had carried out an extensive operation involving the arrest of a large number of people, at a time when the number of disappearances of prisoners detained at police stations continued to rise. Those responsible for disappearances or deaths of prisoners in custody, such as that of Hasan Ocak who had died under torture, enjoyed total immunity.

48. The state of emergency, which since 1987 had been renewed every four months by a vote of the Turkish Parliament, effectively suspended the rule of law in the 12 south-eastern provinces. None of the amendments adopted by Parliament in the recent constitutional reform would alter the situation in the Kurdish region, where the state of emergency still applied. In the region of Van, for example, any notion of law had disappeared. Furthermore, none of the intellectuals or writers imprisoned for dissent would be freed, since article 8 of the anti-terrorism law remained in force and the Turkish army, which defined policy in the Kurdish area, opposed any change.

49. Her organization deplored recent acts of terror in Germany, for which the Kurdistan Workers' Party (PKK) were thought to be responsible, and which might be used by the army to justify its policy of repression. As part of that policy, 35,000 men under arms had advanced into northern Iraq in March 1995 on the pretext of destroying rear bases of the PKK. During that action, 51 Iraqi Kurdish villages had been destroyed, 15,000 people made refugees, and a 10 km unofficial buffer zone created. Further massive bombardments and repeated incursions had finally driven out all the region's inhabitants and destroyed the villages which had been rebuilt through international solidarity. Atrocities committed by the Turkish forces against the villages in the region had increased and the region remained closed to outside observers.

50. On 3 April 1995, seven shepherds and farmers in the Beri Gareh (Sarsang) region had been arrested and executed. In Darkar-Ajam, the army had searched houses and accused householders of being associated with the PKK. In one instance, Turkish forces had forced an entire family to undress and dance in front of them. On 15 April 1995, Turkish forces had conducted searches in the Hizaware Camp and transferred some of the men to Turkish areas. The fate of the men was unknown.

51. The silence of the international community in the face of such actions gave comfort to the Turkish authorities who believed that the Kurdish question could be resolved through violence alone. France Libertés-Fondation Danielle Mitterrand once again urged the Sub-Commission to call on the Commission to nominate a special rapporteur on Turkey and to take any other measures which might be needed to bring an end to the grave human rights violations in the area.

52. The situation in Iraq was another source of grave concern. In June 1995, an uprising in the town of Ramadi had been violently crushed. Consistent reports suggested that several thousand civilians had been arrested and 300 had lost their lives during the demonstrations. Water and electricity had been cut off for several days.

53. The Iraqi authorities still refused to apply Security Council resolutions 706 (1991), 712 (1991) and 986 (1995), which would allow them to purchase food and medical supplies with revenue from the sale of oil. That amounted to a policy of deliberate starvation of the population. In the south of the country, the draining of the marshes had continued during recent months and had ruined the agricultural potential of much of the area.

54. Deportations of Kurdish families in areas under Iraqi control continued. Since the beginning of 1995, 13,000 families in Kirkouk, Khanaqin and Jalala had been ordered to make preparations to leave their homes and make for the autonomous Kurdish region. In the north of the country, fighting between Kurdish factions in the last two years had resulted in the deaths of nearly 2,000 people.

55. In the light of such violations, France Libertés-Fondation Danielle Mitterrand reiterated its request for the deployment of United Nations observers throughout Iraqi territory, the establishment by the United Nations of special provisions to provide long-term protection to Kurds in Iraq, and the application of Security Council resolutions 688 (1991), 706 (1991), 712 (1991) and 986 (1995).

56. Mr. FERNANDO MEJIA (World Organization against Torture) said that his organization was gravely concerned by developments in a number of countries.

57. In Peru, thousands of people had suffered serious violations of the right to life, security and integrity of the person, liberty, and freedom of expression. That situation was now exacerbated by the apparent impunity of those responsible for the violations. The recently enacted Act No. 26479, which granted a general amnesty to military, police or civil officials, protected all agents of the State who had been accused, charged, tried, or sentenced for crimes committed between May 1980 and 14 June 1995. Under the law, all pending cases would be closed and the police, judicial or criminal records of those benefiting from the amnesty would be cancelled. The public and the various human rights organizations were against such measures. Furthermore, the Public Prosecutor, Ana Cecelia Magallanes Cortez and the judge Antonia Saquicuray Sánchez had said that the law in question was unconstitutional and violated the international instruments to which Peru was a signatory.

58. In the light of such facts, his organization considered that the Sub-Commission should condemn the amnesty law in the strongest terms and urge the Congress and Government of Peru to reconsider its decision. The Sub-Commission should also indicate its solidarity with the two jurists.

59. During previous sessions of the Sub-Commission, his organization had also been prompted to express its concern at the situation in Colombia, which had been the subject of many observations and recommendations by various treaty bodies. Most of those recommendations had, however, been ignored by the Government. The promises made by successive Governments to the Commission on Human Rights and to the Sub-Commission to ensure respect for human rights contrasted sharply with the continuing violence which had afflicted the population in recent years. One marked feature of the situation was the almost total impunity enjoyed by perpetrators of human rights violations: in fewer than 5 per cent of the cases brought to court were any sanctions imposed. In that context, the Sub-Commission might make a valuable contribution by proposing that the Commission on Human Rights should appoint a special rapporteur for Colombia, who would be responsible for examining the human rights situation in that country, drawing up proposals to improve protection of those rights, coordinating its activities with those of other bodies, monitoring the implementation of its recommendations and keeping the Commission informed of the situation on a regular basis.

60. He also wished to draw the Sub-Commission's attention to the current situation in Nigeria. The recent harsh sentences, including sentences of death, imposed on 50 civilians and members of the military without due process of law showed that the Government was little inclined to recognize and respect fundamental rights. Further confirmation was to be seen in the numerous cases of illegal detention of human rights activists and members of the political opposition. They included Mr. Chima Ubani, Secretary-General of Democratic Alternative and coordinator of the human rights education section of the Civil Liberties Organisation; Mr. Abdul Oroh, Executive Director of the Civil Liberties Organisation; Dr. Tunji Abayomi, Dr. Beko Ransome-Kuti and Sylvester Odion-Akhaine. It was feared that those individuals had undergone torture and possibly been sentenced without due process of law.

61. In the light of those facts, the Sub-Commission should urge the Nigerian authorities to guarantee the life and physical safety of the people in question and secure their speedy release. It should also recommend that the Commission on Human Rights appoint a special rapporteur to examine the human rights situation, put forward proposals to improve the protection of human rights and to keep the Commission informed on a regular basis.

62. In Guatemala, serious human rights violations continued to be daily occurrences. According to various estimates, more than 250 people had met with violent deaths during 1995. Thirty per cent of those cases were thought to be extrajudicial executions and 40 per cent of the victims had shown signs of torture. Many more hundreds of people suffered severe psychological anguish as a result of threats to their lives and physical safety.

63. Great hopes had been invested in the electoral process now under way, but there were also serious concerns. Civic rights had been severely restricted in previous elections and there had been high levels of violence including

murder. In the view of his organization, the Sub-Commission should urge the Guatemalan authorities to implement its recommendations and to create the conditions needed for the observer bodies to fulfil their mandate. It should also invite the international community and its leaders to take more vigorous action to strengthen follow-up activities and to ensure effective monitoring of the electoral process by international observers.

64. Turning to the persistent denial of the fundamental rights of the Saharan people, he noted that on 11 and 12 May 1994 a large number of demonstrators had been detained in Aioun. Eight people had originally been sentenced to terms of imprisonment of between 15 and 20 years, although those sentences had subsequently been reduced to one year. The severity of the original sentences suggested that the enjoyment of fundamental rights was severely limited. Many other people would remain in prison, including a number of people detained during a demonstration in 1992 in Smara. In view of the fact that many citizens of Morocco had been and continued to be deprived of their liberty, the Sub-Commission should urge the Moroccan authorities to bring its conduct into line with international standards and allow visits by observers, in particular by representatives of the treaty bodies.

65. Mr. OZDEN (Centre Europe Tiers Monde), speaking also on behalf of the Movement against Racism and for Friendship among Peoples, said that his organization wanted to visit the areas of the Western Sahara occupied by Morocco, but had not been given any assistance to do so, although it was in consultative status with the Economic and Social Council. Regrettably, therefore, he was unable to present firsthand information.

66. Nevertheless, the information he did have showed that the situation in that area was a grave one. In June 1995, eight young Saharans had appeared before the court of the Royal Moroccan Armed Forces on charges of endangering the security of the State. In actual fact, they had participated in a demonstration in El Ayoun and distributed leaflets arguing for the independence of Western Sahara and had waved flags of the Saharan Arab Democratic Republic. After sitting for only 50 minutes, the military court had sentenced Lembarki Ahmadou, Dahou el Mahfoud, Missan Marabih Rabou and Lakehal Abdelhai to 20 years in prison, Baba Larbi and Chouikhatou Abdelakebri to 17 years and Lagouara Ahmed and Elbechraoui Nebet to 15 years. All the accused had complained of ill-treatment following their arrest. The United Nations forces present in the area had made no protest, although, fortunately, other organizations had been less reticent. The Moroccan human rights organization had reported that the emergency procedure, during which journalists had been excluded, had not been justified and that the sentences were out of all proportion to the alleged crimes. Defence lawyers had been outraged at the conditions in which the accused had been brought to court. Under pressure from certain countries, the sovereign had reduced all the sentences to one year of imprisonment. At subsequent demonstrations, however, further arrests had been made and one man had died.

67. Numerous obstacles continued to be placed in the way of a referendum on self-determination. They included the recent appearance of 100,000 new potential voters. Under the circumstances, it was surely time for the Commission and the Sub-Commission to speak out in favour of visits by

non-governmental organizations to Western Sahara, given that repeated requests by non-governmental organizations for an official commission of inquiry to visit the occupied areas had not been granted.

68. Twenty years of United Nations resolutions had failed to resolve the issue of decolonization. A more resolute attitude was now needed, given that the United Nations forces on the ground were unable to protect Saharans and made no attempt to publicize the arrests, detentions and iniquitous court rulings of which civilians in that area had been victim. It was time to abandon the policy of caution and confidentiality, given that the United Nations had made no serious efforts to force Morocco to implement the peace plan adopted more than five years previously by the Security Council. It was shameful that a recent visit by a Security Council delegation to the region had not mentioned the fact in its official report (S/1995/498) that its members had gone to occupied El Ayoun.

69. If justice and the respect for human rights were ever to prevail in Western Sahara, the Sub-Commission needed to act now, at a crucial time when hundreds of Saharans were still missing, and speak out in favour of sending a mission of inquiry to the area.

70. There were many other areas of the world where a high price was being paid for speaking out in favour of human rights and freedom. His organization would like the efforts being made in the United Nations to be reflected in deeds in East Timor and he urged the Sub-Commission to formulate appropriate recommendations.

71. Mr. GREENWOOD (International League for the Rights and Liberation of Peoples) recalled that his organization had been speaking out for years on behalf of peoples fighting for their right to self-determination, including that of East Timor and Acheh. While Indonesia still boasted of its role in the proclamation of the Universal Declaration of Human Rights, its own interpretation of those rights was rather restricted. Between July and December 1994, 37 people were reported to have suffered extrajudicial execution at the hands of the armed forces as part of the programme of repression to clear the area around the Freeport copper mine. Thirteen participants in a peaceful demonstration on Christmas Day in 1994 had confessed to being "rebels" after being tortured with razor blades and electric shocks. The local military chief, Major General I. Ketut Wiradana, had confirmed that a resettlement programme was under way and that those who resisted it were treated as rebels.

72. Freedom of speech was also under attack. In one case, Dr. George Aditjondro, an academic at the Kristen Satya Wacana University, had been subjected to interrogation and harassment since his participation in a seminar on 10 August 1994 which had raised the question of human rights abuses in East Timor and Irian Jaya. Although freedom of speech was enshrined in the Indonesian Constitution, Dr. Aditjondro faced charges under article 208 of the Criminal Code for insulting a Government body.

73. Nor were Indonesians living abroad immune from government harassment. Opposition parliamentarian Sri Bintang Pamungkas had been prevented from leaving the country following his alleged participation in the anti-Suharto

demonstrations in Germany in the summer of 1994. The Government had feared that he might try to address the Sub-Commission and reveal the true extent of the political oppression in Indonesia, although the official reason for the ban was the fact that he had been summoned for questioning concerning crimes against the security of the State and the dignity of the head of State. In fact, Mr. Pamungkas had not been associated with those demonstrating against his Government's human rights record, although his outspoken views in the past had made him a convenient scapegoat for the regime, which was determined to crush any criticism of its policies.

74. Another aspect of the poor human rights record was the appalling treatment of prisoners. Twenty-six prisoners were still serving life sentences for political crimes committed during the failed 1965 coup attempt by the PKI (Communist Party), having by now served over 30 years in prison. Indonesian law made no provision for life prisoners to gain remission and even those serving fixed terms of imprisonment had served longer than the original sentences. If Indonesia seriously wished to play a part on the world stage, it should grant an amnesty to those prisoners.

75. Freedom of assembly was often denied arbitrarily. In the last two years the police had run a campaign to prevent groups from assembling and conducting seminars, both by refusing to grant permits and by harassing meetings once they had begun. There was some reason to believe that the policy was directed against specific groups such as the environmental pressure groups WALHI (a member of Friends of the Earth International) and MAN (an anti-nuclear society) which had been refused permission to hold seminars on the Government's nuclear energy programme, although they had complied with official procedure.

76. The Government of France had decided to resume nuclear weapons testing in another part of the world. Such tests over the course of 30 years had destroyed the economic, social and cultural potential of the Polynesian people and caused irreversible damage to the environment and the health of the population in that region. Justification for the tests had been based on the absolute imperative of national security and the maintenance of a credible nuclear deterrent. The tests nullified the efforts being made by millions of people to ensure peace and end nuclear testing. For those reasons, an international commission was now needed to investigate the health and environmental problems associated with 30 years of nuclear testing in French Polynesia.

77. Mr. DJAMIN (Regional Council on Human Rights in Asia), referring to the human rights situation in Indonesia, recalled that the military Government of that country had perpetrated serious human rights violations over a period of 30 years on the pretext of combating Communism and instability. Despite some recent cooperation by the authorities with the Commission on Human Rights, there had been little real improvement. Notable abuses included restrictions on freedom of expression and freedom of association, including attempts to censor public speeches or lectures and ban books. Excessive force had been used to crush peaceful demonstrations and silence political opponents. Examples of such repression had included the banning in June 1994 of three leading weekly newspapers, the raid by government agents of PIJAR (a pro-democracy non-governmental organization) on 9 March 1995 and the

arrest of Mr. Tri Agus Susanto, the Chief Editor of News from Pijar. On 16 and 17 March 1995, three members of the AJI (the Independent Journalists' Association) had been arrested and put on trial. The trial continued in the atmosphere of intimidation which had become a typical feature of political trials in Indonesia.

78. The Government was also continuing with its endeavours to stifle the emergence of a free trade-union movement. Although the leader of the independent trade union Mr. Mokhtar Pakpahan had recently been released as a result of international pressure, the authorities had used excessive force to crush a peaceful demonstration by 6,000 workers and student activists in Bogor in West Java on 18 July 1995. Those arrested would be put on trial.

79. Another tactic in the attempt to stifle the Government's critics had been the dissemination of articles inciting hatred, arbitrary arrests and detentions and blatantly biased trials. The Anti-Subversion Law (Act No. 11/PNBS/1969) was still in force, although not currently applied by the Government.

80. Parliamentarians had also suffered human rights violations. Following the so-called "Dresden incident", when President Suharto had faced demonstrations against his human rights record, Mr. Bintang, an outspoken critic of the Government who had been lecturing in Germany during the President's visit, had been harassed by the authorities and accused of insulting the Head of State and endangering his security.

81. In justification of such human rights violations, the Government had made public statements which played on the public's fear of a return to the violence of 1965 and the dangers of Communism. That had been reflected in the decision to release three long-term political prisoners, namely, Dr. Subandrio, former Minister of Foreign Affairs under President Sukarno; Mr. Asep Suryaman, formerly Chief of the Intelligence Service, and Omar Dhani, formerly Chief of the Air Forces. At the same time, the Government had turned down an appeal by Mr. Bungkus, formerly a sergeant of the Palace Guard under the Sukarno Government.

82. With regard to East Timor, no significant changes had been noted since the verdict on those responsible for human rights abuses in Liquisa. The struggle of the people of East Timor for self-determination was an integral part of efforts to promote and defend human rights throughout Indonesia, and in an effort to promote those endeavours, the Sub-Commission should ask, inter alia, the Special Rapporteur on the independence of the judiciary to visit Indonesia.

83. Mr. NDIMDIYE (International Federation of Human Rights - FIDH) said that his organization continued to be extremely concerned regarding the situation in Algeria, which a delegation of FIDH had visited from 7 to 10 July 1995. Although fundamentalist terrorism had to be unreservedly condemned, the appropriate response could not be one of State terrorism, since excessive repression could only strengthen intolerance. On the contrary, what was needed was a reaffirmation that only a law-based State that respected human rights was capable of withstanding philosophies of hatred and exclusion. FIDH requested the Algerian Government to put an end to all violations of rights

and freedoms and to give priority to a dialogue with the representatives of civil society; likewise, it requested the Sub-Commission to take all measures likely to promote such a development.

84. FIDH and its Turkish affiliate, the Human Rights Association (IHD), denounced the persistence of gross, massive and systematic violations of human rights in Turkey, where the recent reform of the Constitution, although encouraging, had not dealt with the deep-rooted causes of the situation. In fact the Constitution persisted in protecting the State against the citizen by imposing severe restrictions on human rights and fundamental freedoms, particularly on the freedoms of opinion, expression and association and on the right to a fair trial. On 30 June 1995 there had been 10,000 political prisoners in Turkey, distributed among 22 prisons and held in very poor conditions. At least 165 university staff members, writers, journalists, parliamentarians and human rights activists were being held because of their opinions, and at least 5,500 cases involving opinion were pending before the State security courts. Although Turkish law prohibited recourse to torture, the latter was systematically practised and at least 1,000 persons had been tortured in 1994. Furthermore, extrajudicial executions and disappearances of prisoners were very common. In addition, neither the Constitution nor Turkish law recognized the existence of 15 million Kurds and 20 million Alevis. Ethnic and religious discrimination was common, in violation of article 10 of the Constitution, which established the principle of the equality of all citizens. Although the Constitution and the law guaranteed the right to property, 2,505 villages had been evacuated between 1990 and 1995 in the emergency regions, 1,244 of them in 1994. FIDH and IHD insisted that most of those violations of human rights had their origin in the Turkish Constitution itself. They called upon the Government of Turkey to undertake an in-depth reform of the Constitution so that it would effectively protect fundamental freedoms and requested the Sub-Commission to reach a decision to that effect.

85. FIDH and its member organizations in Colombia, known as CPDH, deplored the fact that, despite the good intentions shown by President Semper, the human rights situation in that country had not substantially improved. The meagre commitments concerning an amendment to the Military Criminal Code announced by the Colombian authorities at the time of the fifty-first session of the Commission on Human Rights had not led to satisfactory results. FIDH therefore requested the Sub-Commission to recommend to the Commission that it should appoint a special rapporteur for Colombia.

86. Impunity was one of the most serious violations of human rights in Peru. On 15 June the Government of President Fujimori had promulgated an amnesty for military personnel, policemen and certain civilians who had committed offences in the struggle against subversion. The new law entailed the release of persons responsible for the most atrocious crimes, as in the Cantuta case, and exempted the State from its obligation to make an equitable and impartial investigation of all cases of violation of human rights. It also prevented victims and their families from benefiting from the guarantee of judicial protection and a fair trial in respect of all offences committed during the period covered. At a time when the Sub-Commission was preparing to issue recommendations on impunity, FIDH and its affiliate, APRODEH, together with Peruvian human rights associations and judges, hoped that it would adopt a very firm decision on the situation in Peru.

87. FIDH and its affiliate in Togo, the Togo League for Human Rights (LTDH), were worried about the persistence of serious violations of human rights in that country. Most of the prisoners of opinion who had been released after the amnesty adopted on 2 December 1994 had since been subjected to great pressures or had been re-arrested and thrown into prison. Also, FIDH protested strongly against the authorities' manifest lack of will to adopt measures likely to prevent violations of the right to life and to guarantee the security of persons; it urged the Sub-Commission to recommend to the Commission that a surveillance mechanism should be established.

88. In Chad, massive, systematic and gross violations of human rights had been perpetrated with the same degree of seriousness for several years. The presidential elections, after being further postponed, were due to be held in a few months' time. There was a danger that, unless the international community expressed greater concern regarding the situation, war would break out again. Consequently, FIDH and its affiliate, the Chadian League for Human Rights (LTDH), called upon the Government of Chad to respect its commitments in full and requested the Sub-Commission to condemn energetically the serious violations of human rights for which the authorities of Chad were responsible and to recommend to the Commission on Human Rights that a surveillance mechanism should be set up to deal with the situation.

89. In Yemen, FIDH and its affiliate, the Yemeni Organization for Human Rights and Democratic Freedoms (YODIDF), were extremely concerned about the consequences of the civil war which had afflicted the country in 1994. They regretted that the authorities had not yet taken any measure to assist the reconstruction of the country and to assure respect for fundamental freedoms. They called upon the Government to protect the freedoms of association, assembly and expression guaranteed by the Constitution.

90. In Bahrain, FIDH and its affiliate, the Committee for the Defence of Human Rights in Bahrain (CDHRB), were very concerned about the deterioration of the human rights situation and requested the Sub-Commission to take action to stop the escalation of governmental violence.

91. In China, FIDH was very worried about the fate of Peter Harry Wu, who had been arrested on 17 June when he had been carrying a United States passport with a valid visa. It also wished to have some information on the fate of Weijing Sheng, a candidate for the Nobel Prize in 1995 who had not been heard of since his arrest on 1 April 1994. Finally, FIDH deplored the restrictions which the Chinese authorities had placed on NGOs on the occasion of the preparatory meeting for the Fourth World Conference on Women, which China had agreed to host. The NGOs would be located far away from the seat of the governmental conference, and FIDH urged the Sub-Commission to request the Chinese authorities to conform to the organizational practices for world conferences observed since 1992.

92. Mr. ZOLLER (International Service for Human Rights) observed that his organization, being concerned with the use of international procedures for the promotion of human rights, wished to make an exceptional statement on two matters.

93. The first was the former Yugoslavia, where the credibility of the protection mechanisms was at stake. The Special Rapporteur had shouldered his responsibilities by sending in his letter of resignation on 27 July 1995. His appeal should be taken up by the Sub-Commission, since, whatever the state of the negotiations might be, acts of genocide and gross violations of the Geneva Conventions could not be ignored. By creating "safe zones", the United Nations had assumed certain commitments towards them and must protect their defenceless civilian populations. By appointing a Special Rapporteur at the end of the Commission's first extraordinary session, by making special arrangements in respect of enforced disappearances in 1994, and by organizing joint on-the-spot visits by the Special Rapporteur and thematic rapporteurs, the Commission on Human Rights had developed the special procedures considerably. To accept the failure of those measures would amount to calling into question the whole machinery, since States would receive the tragic signal that impunity was guaranteed in advance. His organization therefore supported Mr. Bengoa's call for an emergency debate on the subject. If the Sub-Commission failed to sound the alarm, what other United Nations body would do so?

94. The debate on the organization of agenda item 6 was one that gave rise to some concern, since the procedure was of great importance for a number of human rights organizations that were active in the field. In 1994 the Sub-Commission had decided that in 1995, on an experimental basis, item 6 would be taken up immediately after the adoption of the agenda. However, at the request of Ms. Chavez and Mr. Decaux it had been made clear that such an arrangement would not imply that the traditional deadlines for the submission and voting on draft resolutions after the closure of the debate would have to be respected and that draft resolutions on item 6 could be voted on at the end of the session, as in previous years. The planning adopted by the offices on 31 July was not in conformity with that decision and should therefore be reviewed.

95. The decision adopted in 1994 for the calculation of the speaking time on item 6 was counter-productive since, not knowing in advance how much time was available to them, the observers for several NGOs had drafted their statements at a later stage and had therefore not entered their names on the list of speakers. That had made it impossible to know how many speakers there would be and to determine the number of minutes to which each speaker would be entitled.

96. The fact that the important debate on the reform of the Sub-Commission's work was focused on agenda item 6 illustrated members' profound uneasiness regarding the NGO community. Some of the irritation was understandable, but would it not be more appropriate to take measures against the minority of observers who did not respect all the rules rather than to attack NGOs as a whole?

97. The difficulties and tensions relating to item 6 had other deep-rooted causes apart from the role of NGOs. Many States did not at all appreciate the work done by the Sub-Commission in examining violations of human rights. Some States did not respect the independence of the Sub-Commission and brought pressure to bear in the capitals of countries having citizens who were members of the Sub-Commission and participated in meetings of the Sub-Commission not

in order to provide information, but in order to threaten. Every year the consideration of violations and the voting on draft resolutions were very painful events for several members of the Sub-Commission. The situation was deplorable, but was that a reason to clash with NGOs that were not responsible for it?

98. The Sub-Commission was an indispensable laboratory within the United Nations for the elaboration of norms and for alerting the international community to worsening situations. It was therefore a very important body for human rights organizations throughout the world, without whose contribution it would hardly be in a position to fulfil its mandate in full. The two partners were therefore bound to understand one another. Invective and facile solutions must be avoided, anger must be assuaged, and a dialogue must be started to forge closer working relations. Otherwise tension and irritation could lead to a conflict in which both parties would be the losers. It was at least surprising that the Sub-Commission should be, so far, the only United Nations body to have adopted restrictive measures against NGOs. There was still time to put the matter right.

99. Mr. MIRANDA (Latin American Federation of Associations of Relatives of Missing Persons - FEDEFAM) reiterated his organization's deep concern regarding the serious human rights situation in a number of countries of the American continent. Colombia was a case in point, and on many occasions NGOs and even Governments, thematic rapporteurs and working groups had commented on the situation in that country. In 1994 Colombia had been visited jointly by the Special Rapporteurs on Extrajudicial, Summary and Arbitrary Executions and on Torture, who had stated in their report that the level of violence had constantly increased in the past few years until it had reached alarming proportions, despite the legislative reforms and other initiatives adopted by successive Governments. They had also submitted a series of recommendations to which no reply had yet been given. The situation had not improved and the serious problems posed by impunity, the ineffectiveness of the military criminal courts when dealing with human rights violations, secret justice, private justice and paramilitarism were still continuing. FEDEFAM therefore endorsed the Special Rapporteurs' recommendation that a special rapporteur should be appointed to monitor permanently the human rights situation and to report thereon. That would also meet the needs indicated by the Colombian Government when it had invited six rapporteurs and thematic working groups to visit the country in 1995. The lack of viability of such a proposal amply justified the establishment of a permanent and specific mechanism for Colombia.

100. Another source of great concern was the situation in Peru, where the Parliament had approved an amnesty providing immunity for those responsible for massive and systematic violations of human rights. The Peruvian State had thus confirmed its persistent failure to comply with the human rights obligations which it had assumed before the international community and its own people. FEDEFAM was therefore opposed to the recent amnesty and urged the Sub-Commission to make it clear to the Government of Peru, in a resolution, that it disagreed with the amnesty and required full respect for international law, which entailed that human rights violations should be clarified and that those responsible for them should be brought to trial and punished.

101. In Brazil, consideration was being given to the approval of a law establishing a commission to investigate the situation of persons who had disappeared during the dictatorship and providing for the payment of compensation to their families. That could have been good news for those who had fought for truth and justice for so many years, but it was not so in fact because of the content of the text and the manner arranged for its approval. The commission of inquiry would consist of only three members and would have only 60 days in which to carry out the investigation. Moreover, the only form of compensation provided for was a financial indemnity for victims. The short period of time available to the commission was contrary to the provisions of article 13 of the Declaration on the Protection of All Persons from Enforced Disappearance and was also clearly insufficient for a task of that kind. FEDEFAM considered that the procedure chosen by the Government was inappropriate and that a more democratic measure should be adopted, preceded by a broad public debate on the subject. Moreover, a financial indemnity alone was not enough. The commission should have broad powers of investigation covering not only cases of enforced disappearances but also all serious violations of human rights. FEDEFAM urged the Brazilian Government to sponsor an effective investigation which would establish the truth and would not provide impunity for those responsible for serious human rights violations.

102. Violations of human rights and fundamental freedoms continued to be a constant feature of life in Guatemala, with harrowing discoveries of clandestine cemeteries for victims of the repression during the de facto regime of General Efrain Ríos Montt. On 21 July 1995 the enforced disappearance of two women leaders of the Trade Union Federation of Guatemala had been reported. FEDEFAM urged the authorities to give effect to the commitments entered into through the peace agreements and to collaborate fully with the United Nations mission in Guatemala and requested the Sub-Commission to continue to keep the case of Guatemala under review.

103. Ms. ROSEMAN (World Federation of Democratic Youth), after referring to human rights violations, wars and violence in Bosnia and Herzegovina, Chechnya, southeast Turkey, Rwanda and Somalia, said that Sudan was an example of the systematic and flagrant violation of human rights perpetrated by a Government against its own people, as evidenced in the ever-increasing number of laws and ordinances curbing fundamental rights that had been introduced since the present military junta had assumed power in June 1989. The last set of such laws had been introduced in April 1995, when the new State security laws had legalized personal crimes committed by the security forces. Under them any security agent was empowered to arrest and detain a person for three days without having to give reasons for his action; an officer could order the arrest and detention of any person for a period of one month without investigation or charge; and the National Security Council was empowered to detain anyone on the ground of national security for a renewable period of three months, again without investigation or charge. The new laws had further stipulated that any member of the security forces who falsely accused a colleague of human rights abuses would be sentenced to a period of imprisonment of up to five years, thereby reducing the likelihood of denunciations being made, effectively placing security agents above the law.

104. The first well-known victim of the new law was Mr. Sadig el Mahdi, the former elected Prime Minister and leader of the opposition UMMA party, who had been arrested on 16 May shortly after delivering a sermon regarded as critical by the regime. Since his arrest no charges had been filed against him and he had not been allowed access to family members or lawyers. He had recently been asked by the Government to denounce certain exiled leaders of his party and to disassociate himself from their political activities as a precondition for the treatment of his case.

105. The regime's outstanding reputation for repression of political figures had also been manifested by the confiscation of the house of Dr. Omer Nur Udyem, secretary-general of the UMMA party, on 31 March 1995. Without previous warrant or court order, his wife and daughters had been immediately thrown out of the premises by the regime's security forces. That was an illegal action even under the present dictatorship. Confiscation of property in that way had no basis in law, and in Islam private ownership was sacrosanct.

106. In addition, in war-affected zones such as southern Sudan and the Nouba mountains, genocidal practices against civilians and minorities alike continued to take place despite international calls for a political solution or a cease-fire. Her organization called upon the Government of Sudan to stop all human rights violations and to repeal all repressive laws.

107. The human rights situation in Nigeria had been deteriorating continuously since the annulment of the presidential elections of June 1993. Despite the limited measures to restore freedom of the press, the Government's fierce crackdown on political opponents and its aggressive attitude towards human rights activists made it clear that it was not intending to restore a full democracy or to respect the Nigerian people's right of choice. In fact, the very way in which the army had taken power negated any such hopes. Too many pro-democracy activists were languishing in jails, often under harsh conditions. In March 1995 the former head of State, General Obasanju, had been arrested and detained along with 39 other persons after an alleged coup attempt. Although the Government had claimed that they had been tried, it had failed to make public the verdicts. The 1993 President Elect, Chief Abiola, as well as the prominent minority rights activist Mr. Ken Saro-Wiwa, both of whom were suffering from poor health, were still in detention despite calls for their release. Her organization therefore urged the Sub-Commission to take all necessary measures to improve the human rights situation in Nigeria.

Statements equivalent to a right of reply

108. Mr. OMAR (Ethiopia), referring to the statement made by Ms. Ghennet, the observer for the African Association for Education for Development, said that the speaker belonged to a political organization opposed to the whole democratic transition in Ethiopia. She had abused the consultative status of the African Association for Education for Development in order to instigate violence consistent with the policies of her organization, which had chosen non-peaceful means of opposition. In a spirit of tolerance and political accommodation, the Government had consistently tried to invite her organization to operate within the framework of the rule of law. The Government had also repeatedly called upon the handful of self-exiled

opposition groups to participate in the process of drafting a constitution and in the recent multi-party general elections. The groups concerned had not participated, not because they had not been allowed to but because they had refused to abide by the law. The process of drafting the constitution had given rise to widespread public debate and grass-roots participation, and the text had been adopted by the elected representatives of the Constitutional Assembly. Moreover, various political organizations and individual candidates had participated in the multi-party general elections.

109. Ms. Ghennet had tried to give the impression that the meeting held in Washington under the auspices of the United States Congressional Task Force had not been successful because of the political prisoners issue. However, there were no political prisoners in Ethiopia and the real difficulty had been that the groups concerned had refused to agree to abide by the rule of law and to accept the established institutions of government.

110. Ms. Ghennet had also alleged that the Government did not tolerate opposition. However it was well known that various opposition groups operated in the country and the opposition had also held a conference on "peace and reconciliation" in Addis Ababa. The Government had not only allowed the conference to be convened but had also made a government hotel available to the organizers for rent. In that connection it should be pointed out that the seven individuals who had come for the conference had been apprehended and brought before the courts for their participation either in the Red Terror or because of the high positions which they had held in organizations involved in violence against the Government. Six of the individuals, including Ms. Ghennet, had been released when the prosecutor had dropped the charges against them after they had written an appeal to the Government stating that the changes in the country had created conditions that enabled different political organizations to promote their aims peacefully and that recourse to an armed struggle could not make a positive contribution to the building of a democratic society in Ethiopia. The fifth defendant in the case, Mr. Aber Yemaneab, who had been a senior government official during the previous tyrannical regime, was being held in custody because he was wanted for his alleged involvement in the Red Terror. His application for release on bail had been refused because the alleged offence was extremely serious.

111. The Transitional Government of Ethiopia was firmly in favour of respect for, and the protection of, human rights and fundamental freedoms and had taken various measures to ensure the rule of law. Institutional safeguards, supervision and training had been introduced in law enforcement agencies in accordance with international human right standards. Consequently, Ms. Ghennet's allegations of disappearances and secret detentions were pure fabrications. However, despite all the allegations, Ethiopia was rapidly moving towards a popularly elected Government which would secure the peace and stability achieved during the past four years. The Transitional Government welcomed constructive criticism from whatsoever source, since it helped to consolidate the democratization process. However, it deeply regretted that the Sub-Commission had been misused by a political organization that had abused the consultative status held by the African Association for Education for Development in order to agitate in favour of violence and civil war.

112. Mr. NGUYEN VAN SEN (Viet Nam) said that the statement made in respect of Viet Nam by the observer for Pax Romana was cynical. In the recent past, hundreds of thousands of persons who had left Viet Nam had returned. Nevertheless, groups loyal to the previous regime were still trying to cause trouble by falsifying the facts.

113. Mr. SALMAN (Iraq) said that the statement made by France Libertés - Fondation Danielle Mitterrand needed some clarification. The Government of Iraq could hardly have been trying to deport Kurdish citizens, since the Kurdish areas of the country were not under its control. Moreover, certain other allegations had been found to be untrue by journalists who had visited Iraq. It was curious that France Libertés - Fondation Danielle Mitterrand had not mentioned the very large numbers of Iraqi citizens who had suffered terribly as a result of the embargo.

ORGANIZATION OF WORK

114. The CHAIRMAN drew attention to a private meeting that had been held on the previous day between officers of the Sub-Commission and those of the Committee for the Elimination of Racial Discrimination in connection with the joint meeting scheduled for 3 p.m. on 8 August 1995. At the joint meeting, the Chairmen of the two bodies, as well as the Special Rapporteur on contemporary forms of racism, would make introductory statements lasting 15 minutes. The floor would then be given in turn to members of the Sub-Commission and of the Committee. The representative of the NGO Subcommittee on Racism, Racial Discrimination, Apartheid and Decolonization would also be entitled to speak. At the end of the debate a joint statement reflecting the concerns of the two bodies would be published. The agenda would consist of three items: (i) Third Decade to Combat Racism and Racial Discrimination; (ii) world conference against racism, racial and ethnic discrimination, xenophobia and other related contemporary forms of intolerance; and (iii) specific proposals for the campaign to combat racism and racial discrimination.

115. The members of the Bureau of the Sub-Commission and of the Bureau of the Committee for the Elimination of Racial Discrimination envisaged the institutionalization of such meetings in order to facilitate cooperation and the exchange of information between the two bodies.

116. He also announced that the members of the sessional working group on the administration of justice and the question of compensation would be Mr. Fan Guoxiang, Mrs. Gwanmesia, Mr. Chernichenko, Mrs. Forero Neros and Mr. Joinet.

The meeting rose at 1 p.m.

UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL

E/CN.4/Sub.2/1995/SR.5
10 August 1995

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS

SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND
PROTECTION OF MINORITIES

Forty-seventh session

SUMMARY RECORD OF THE 5th MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 3 August 1995, at 10 a.m.

Chairman: Mr. MAXIM

CONTENTS

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING POLICIES OF RACIAL DISCRIMINATION AND SEGREGATION AND OF APARTHEID, IN ALL COUNTRIES, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES: REPORT OF THE SUB-COMMISSION UNDER COMMISSION ON HUMAN RIGHTS RESOLUTION 8 (XXIII) (continued)

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent within one week of the date of this document to the Official Records Editing Section, room E.4108, Palais des Nations, Geneva.

Any corrections to the records of the public meetings of the Sub-Commission at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

GE.95-13218 (E)

The meeting was called to order at 10.10 a.m.

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING POLICIES OF RACIAL DISCRIMINATION AND SEGREGATION AND OF APARTHEID, IN ALL COUNTRIES, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES: REPORT OF THE SUB-COMMISSION UNDER COMMISSION ON HUMAN RIGHTS RESOLUTION 8 (XXIII) (agenda item 6) (continued) (E/CN.4/Sub.2/1995/8 and 41; E/CN.4/Sub.2/1995/NGO/3, 11 and 15; E/CN.4/1995/55)

1. Mr. SAFFARI (International Association of Democratic Lawyers) said that it was evident to all that despite the Government's statement that it executed only drug smugglers, political prisoners in the Islamic Republic of Iran were being sent in front of firing squads. Moreover, in April 1995, a demonstration of 50,000 residents protesting against living conditions in Tehran had been violently quelled, with at least 50 persons killed, hundreds wounded and over 600 arrested and subjected to torture during interrogations by the Intelligence Ministry. Other similar demonstrations had taken place in the past year, in Tabriz, in Tehran and in Babol, in which scores had been killed and hundreds wounded. In October 1994, a law had been adopted to permit security forces to shoot demonstrators at will; the European Parliament had subsequently condemned the law and expressed its horror at the use of terrorism as a method of government.

2. In the past 15 years, the Iranian regime had committed over 100 terrorist attacks on Iranian nationals in 18 countries, and in May 1995, for the first time two women dissidents had been targeted for assassination. Furthermore, the New York Times had reported a plot by diplomates in the Iranian Embassy in Bonn to disrupt a huge protest rally of Iranian expatriate dissidents held in Dortmund, Germany in June 1995, perhaps with the intention of assassinating a leading opposition leader who was to address the demonstration. Iranian nationals abroad were not the only target of the clerics' murderous intentions: the fatwa against Salman Rushdie had as recently as July been reconfirmed as irreversible by President Rafsanjani.

3. Repression against women had been the most heinous form of human rights abuses. The vast majority of the 1.3 million Iranians officially acknowledged by the clerics as having been assaulted by their forces in the streets in the past year alone had been women; their lips had been slashed with blades, their foreheads pierced with thumbtacks and acid had been thrown in their faces.

4. Over the past 15 years, various United Nations bodies had in 34 different resolutions condemned the Islamic Republic of Iran for its human rights abuses. The Sub-Commission must, of course, adopt the thirty-fifth resolution. Surely, however, the time had come for the Security Council to consider an arms and oil boycott against the most brutal dictatorship in contemporary history.

5. Ms. KAISIÈPO (Survival International) drew attention to the deteriorating human rights situation in the Indonesian province of Irian Jaya, or West Papua. There had been disquieting reports in the past 14 months of atrocities against the Amungme, Dari, Komoro and Ekari people living in the vicinity of the huge Freeport Indonesia Inc. copper mine. Since 1967, the company had been extracting enormous amounts of natural resources from the

island, with no concern for the effects of the environment or on the survival of the indigenous people in the vicinity. In the last half of 1994, local people had protested the extension by 2.6 million ha. of the mine's concession area by staging uprisings and peaceful demonstrations; the brutal reaction by the Indonesian army and Freeport security personnel had resulted in 32 deaths and hundreds of injuries. A detailed report based on eyewitness accounts of the events released by the Australian Council for Overseas Aid and other sources of information would be submitted to the Sub-Commission. There were also eyewitness accounts of the unprovoked murders of the two Komoro and Ekari men in separate incidents in the area by soldiers of the Pattimura 733 battalion, in April 1995.

6. Journalists and human rights investigators were barred from making independent inquiries in the area because Freeport Indonesia Inc. was anxious to conceal the extent of the environmental and social damage it had wrought. Since many of the local people were illiterate or had no means of communication with the outside world, it was virtually impossible to collect evidence.

7. The Amungme people, among others living in the vicinity of the mine, had been trying to no avail to institute a dialogue regarding compensation for the loss of their lands. The people wanted a legal solution and were seeking ways of using all international instruments to obtain their rights.

8. As long as the international community allowed Indonesia to conceal its human rights violations in West Papua, the general pattern of gross human rights violations in the country would continue. As long as the Government used its modern army to isolate West Papua and other islands under its rule, not only would the human rights of the indigenous peoples be trampled, but all peaceful processes for democracy, peace and stability in the Asia-Pacific region would be blocked.

9. Survival International endorsed the widespread opinion among West Papuans that the United Nations, having handed over West Papua to Indonesia, should assume responsibility for ensuring full respect for the human rights of the West Papuans.

10. Ms. KELLER (International League for Human Rights) said that her organization was gravely concerned about ongoing, widespread and systematic human rights violations taking place in the People's Republic of China. China was currently undergoing a process of rapid economic change that had resulted in an increase in some individual freedoms and an improvement in the living standards of many people. However, due to the lack of an independent judiciary and other institutionalized protections of individual rights, abuses by officials at all levels of power remained widespread and unchecked. Common types of abuses of human rights in China included restrictions on freedom of expression and association, arbitrary detention, and the torture and ill-treatment of prisoners. Moreover, the Government's refusal to recognize the protection of human rights as a responsibility of a United Nations Member State had resulted in a lack of any genuine effort to improve its human rights record. Over the past year, human rights conditions had continued to deteriorate, culminating in the recent arrest of the American-Chinese human rights activist, Harry Wu.

11. The Government detained individuals for exercising their rights to freedom of association, freedom of religion and freedom of expression. Although the Chinese Constitution guaranteed freedom of association and assembly, national regulations severely limited association and gave the authorities absolute discretion in denying applications for public gatherings or demonstrations. Recent regulations implementing the 1993 State Security Act threatened the remaining channels available to activists by criminalizing vital activities and giving State security officials virtually unlimited power to detain individuals, confiscate property and determine what constituted a "hostile" organization.

12. Although the Constitution also guaranteed freedom of expression and of the press, the Government in practice employed a wide range of controls that violated those freedoms. Dissidents who made their opinions known to the foreign media were often subject to threats, detention, harassment, intensive surveillance or imprisonment. During 1994 alone, at least 20 Chinese writers, journalists, editors and publishers had been persecuted in connection with their work.

13. Torture of detainees was endemic in Chinese detention centres and prisons. Even though China had become a party to the United Nations Convention against Torture in 1988, the Government had not taken effective measures to diminish the risk of prisoners being tortured or ill-treated. In many detention centres, beatings, inadequate food and poor hygiene appeared to be a routine part of the process of eliciting confessions and compliance from detainees, whether ordinary or political prisoners. Despite the continuing efforts by the United Nations Special Rapporteur on Torture, the International Committee of the Red Cross and other humanitarian organizations, Chinese officials had not agreed to allow open and unannounced visits to prisoners.

14. Fair, impartial trials were rare, due to the lack of legal safeguards, and the extensive control over trial outcome exercised by political-legal committees. In addition to judicial convictions, the Chinese authorities consistently used administrative procedures to detain hundreds of thousands of Chinese and Tibetans each year, targeting human rights activists in particular. The authorities also used petty infringements of laws or regulations that would not normally merit imprisonment in order to send dissidents to labour camps. China had infrequently released political prisoners of conscience before the completion of their sentences, predominantly in response to international pressure. However, those released had been forced into exile, subjected to continuing police surveillance and harassment or detained again for alleged violations of the restrictive parole conditions or for new "crimes" of free expression. Although any releases of political prisoners were of course welcome, such releases had been laden with conditions and represented a mere fraction of the total number of political prisoners in China.

15. Since the previous Sub-Commission meeting, the Chinese Government had shown no willingness to change the conditions that contributed to the systematic violation of human rights. Dissidents were only the most visible victims of abuses, and their concerns about the lack of institutional and

legal safeguards for human rights reflected problems that could affect any Chinese citizen, in any place, at any time, for any reason, or for no reason at all.

16. The International League for Human Rights urged the Sub-Commission to pass a resolution addressing the human rights violations in China. The resolution should contain the following three recommendations to the Chinese Government: first, China should sign and ratify without reservation the two International Human Rights Covenants; secondly, China should allow the International Committee of the Red Cross unlimited access to prisons, labour camps and detention facilities; and thirdly, China should give internationcal observers nominated by the United Nations High Commissioner for Human Rights access to political trials.

17. Mrs. FORERO UCROS said that the panorama of human rights the world over was a matter of concern. The most acute crisis was in Bosnia and Herzegovina, and the failure to find a solution there was a sign of the international community's impotence, a matter that demanded searching analysis. In Rwanda and Burundi as well, there was no great hope at the moment of lasting peace and harmonious coexistence.

18. In the general picture, human rights violations were endemic, especially in developing countries. Among the persons most seriously affected were those who migrated from developing to developed countries, by necessity as refugees or by desire as immigrants, whether legal or illegal. Those inflows had created tensions in so-called multicultural societies; countries which had promulgated generous post-Second World War asylum or immigration policies were now clamping down and imposing restrictions, because immigrants introduced a diversity that was not always welcome. The multicultural component could indeed be positive - but it could also be destructive if immigrants were marginalized, denied access to work, forced to live on welfare and changed into a sub-class living in poverty and permanent segregation handed down from generation to generation. Rather than barring immigrants by law from becoming active members of society, Governments must aim at their integration and must end their human rights victimization.

19. The phenomenon of segregation of immigrants went hand in hand with anti-immigrant movements that channelled a dangerous xenophobia among vulnerable groups in society, who saw in foreign immigrants the cause of problems, like rising unemployment, that were due to economic recession. In response, States were pushed into repressive policies, and frontiers were closed. That in turn prompted illegal organizations to exploit the needs of millions who crossed borders in search of a better life, thus fostering a barbarous and illegal human traffic.

20. At the end of the twentieth century, any discussion of the agenda item under consideration must take into account the discrimination and ostracism experienced daily by immigrants the world over, whose plight had become a matter of global alarm. Immigrants, especially illegal ones, were unprotected by definition. But a body like the Sub-Commission, which existed to defend minorities, must specifically consider their rights. On its fiftieth anniversary, the United Nations must adopt as its course of action the building of a culture of integration. It must accordingly draw the attention

of States to the equal rights of immigrants in multicultural societies. States must be urged to review their immigration policies in the light of human rights standards so as to give immigrants equal access to employment, education, health and housing. Governments must be made to realize that a multi-ethnic society must be truly multicultural, drawing on the richness of diversity and making full use of that human potential to achieve harmonious coexistence.

21. Another factor that must be considered was the extent of a Government's cooperation with the United Nations human rights bodies. The greater the political will to cooperate, the greater the chances for full enjoyment of human rights. It was not desirable in democratic societies to impose cooperation with the United Nations. In her own country, Colombia, there was active, explicit and effective cooperation, through the practical steps being taken by a recently established commission; and government institutions were collaborating with non-governmental organizations in developing a policy of collaboration with the United Nations. Such an attitude had to be taken into account in making an objective analysis of the human rights situation in a country.

22. Mr. UL-HAKIM said that the central focus in the Charter of the United Nations was on the protection of the individual and on human rights. Yet 50 years after its adoption, appalling situations of ethnic strife like those in Bosnia and Herzegovina, Rwanda and Chechnya had suddenly occurred, once the unipolar world had come into being. They might be more easily controlled if the International Criminal Tribunal set up to identify the guilty in Bosnia and Rwanda could move quickly to hold one or two well-publicised trials showing that the United Nations was serious. Basically, however, the genocide in the Balkans continued because the major Powers were afraid of igniting a new world war. Recently, for instance, in response to terrorism against its United Nations peacekeepers, France had indicated it would withdraw them, and the United States had also argued against the international use of force.

23. In its draft resolution under item 6, the Sub-Commission should send the message that the principles enshrined in the Charter must be defended and human progress safeguarded, and that the international community must not fear to ensure justice for innocent victims.

24. Mr. KHAN recalled that agenda item 6 was at the core of the Sub-Commission's mandate and was of particular significance in the year which marked the fiftieth anniversary of the United Nations. It was clear that over the past 50 years the United Nations had evolved from a body primarily concerned with issues of international politics to one playing a crucial role in environmental and development matters, and human rights, reflecting the will of the international community, had become the top priority. The Charter of the United Nations proclaimed a belief in fundamental human rights, in the dignity and worth of the human person and in equal rights for men and women of all nations. Within the United Nations system, the Sub-Commission acted as a think-tank for the Commission on Human Rights and many of the ideas now enshrined in United Nations declarations had originated from it. It had also played an important role in monitoring the implementation of human rights instruments.

25. Nevertheless, although international awareness of human rights had grown, violations of those rights continued. The many resolutions adopted by the United Nations appeared to have had only a limited impact, which suggested a lack of political will on the part of member States.

26. Massive violations of human rights had been seen recently in Rwanda, Burundi and Bosnia and Herzegovina. United Nations peace-keeping forces had been present in Rwanda as massacres were taking place, instead of preventing the massacre, the Security Council had decided to withdraw the force, showing more concern for the safety of the peacekeepers than for the safety of the population. Subsequent action taken by the United Nations to strengthen its presence in the country had not made up for its failure to act decisively at a critical time.

27. In Burundi, the situation was still fragile. Ethic antagonisms had upset the social and political balance in the region and imperilled the lives of millions of people. The important lesson to be drawn from both Rwanda and Burundi was that democratic pluralism, rather than ethnic identity in the narrow sense, was the best safeguard for human rights for individuals and communities. Separate ethnic, cultural or linguistic identities could be and needed to be protected within a system that recognized and accommodated those differences, rather than promoting fragmentation of a society which inevitably jeopardized human rights and international peace and security.

28. The case of Bosnia and Herzegovina, on the other hand, was different in the sense that human rights violations had continued in that country over a long period despite the presence of United Nations forces. The effect of the 30 resolutions on Bosnia and Herzegovina adopted thus far by the Security Council had been negligible and the international community had done nothing to prevent the fall of Zepa and Srebrenica. The time had come for effective peace-enforcement action under United Nations command and control. The Charter provided for machinery to give effect to enforcement action by the United Nations. Article 47 of the Charter stated that a Military Staff Committee should be established to advise and assist the Security Council on all questions relating to the Security Council's military requirements for the maintenance of international peace and security. The Military Staff Committee seemed not to be in evidence in Bosnia and Herzegovina.

29. It was imperative to restore confidence in the United Nations as an instrument of peace. The first step towards that goal would be to set up an investigation into the atrocities committed against the civilian population and others in the region. Persons found responsible for the atrocities should then be charged with crimes against humanity and put on trial.

30. In that context, it was now high time to establish an international criminal court to ensure that the guilty did not go unpunished. Such a court would need to be endowed with compulsory jurisdiction and its judgements should be made enforceable through Security Council resolutions.

31. The half-hearted action taken in Bosnia and Herzegovina would need to be reinforced by more resolute action on the part of the Western Powers. The United Nations forces in the area would need to be placed under the full command of the Security Council's Military Staff Committee, and would answer

directly to the Security Council. Failure of any force to establish peace reflected failure by its command, and there was no reason why action should not be taken against commanders who had ignored the suffering of the people in Bosnia and Herzegovina.

32. Mr. BOUTKEVITCH noted that the area covered by agenda item 6 was wide-ranging and multi-faceted and overlapped with other items such as item 5. Rather than talking in specific terms about particular violations or measures to combat crimes such as racism and racial discrimination, he wanted to focus on the question why such crimes were still possible, paying particular attention to the nature of the legal area in which violations occurred and to the features of the existing machinery for protecting human rights which failed to prevent them.

33. There was no doubt that the issues covered by agenda item 6 were the priority area in the Sub-Commission's mandate and it was understandable that the Sub-Commission should have started its discussions with that item. But they also required a delicate approach, detailed analysis and unambiguous recommendations. Although the Sub-Commission discussed the agenda item 6 every year, new tragedies continued to occur and were tending to become regional, rather than purely local, in scale. It was to be hoped that they would not, as seemed possible in some cases, become universal. If that were to be prevented, the United Nations and its institutions including the Sub-Commission needed to redouble their efforts to combat human rights violations. The Sub-Commission had certainly shown its worth in the struggle against racial discrimination and apartheid and other violations of human rights. The mere fact that a particular situation had been highlighted in its deliberations had on occasions produced positive results, South Africa being the most noteworthy example. However, the list of human rights violators had not shortened, the only real difference in 1995 being that the situation in the former Yugoslavia had now overtaken Rwanda as a priority. One possible reason was the constant improvement in the Sub-Commission's analysis of the information it received and the growth in the amount of information available. Non-governmental organizations in particular had become more efficient at uncovering crimes which once would have gone unreported. Secondly, there was no efficient machinery for taking action against human rights violators once they had been identified. Those responsible felt that they had nothing to fear, and the apparent unfairness in the way attention was focused on one State rather than another tended to breed a dangerous cynicism. Thirdly, many of the international instruments relating to the area of human rights violations dated back to the foundation of the United Nations and did not cover or even envisage the sort of crimes which were being perpetrated today. There was therefore an urgent need for new optional protocols and new human rights standards. Fourthly, double standards were still applied when considering human rights violations. The countries most often accused of such crimes were developing countries in Asia, Africa or Latin America, as though they were the only sources of such evils as racism, segregation and apartheid. In reality, it was simply that weaker nations were more vulnerable to criticism. Fifthly, existing procedures within the United Nations system for discussing and responding to human rights violations were cumbersome and bureaucratic. As matters stood, years would elapse between the Sub-Commission's initial discussion of a particular situation and the adoption of a declaration, while a convention had to pass through an even more

labyrinthine system before finally being adopted. In the meantime, human rights violations, perpetrated by people who were not subject to such bureaucratic constraints, continued unchecked.

34. The sixth factor which made the United Nations ineffectual in its efforts to combat human rights violations was the quality of work done within the various United Nations bodies. Part of the problem was a growing tendency for States parties not to submit their periodic reports due under the terms of conventions because the work involved was too onerous. As a result, little attention was paid to many of the reports produced by United Nations bodies because they contained little original information and no specific recommendations, and any recommendations by United Nations bodies tended increasingly to be treated with contempt by human rights violators. Failure by the Sub-Commission to improve the quality of its own work had meant that the issues grouped under agenda item 6, which should have been settled long ago, had instead become the top priority.

35. The independent experts would have preferred to spend more time hearing accounts from people with first-hand knowledge of violations, rather than devoting so much time to speaking themselves. Too little time was now available for the many speakers who wished to report on human rights abuses, and the restricted time available to them would affect the quality and value of their statements. That in turn would make the independent experts' task more difficult and might lead to a situation where the Sub-Commission's resolutions all sounded the same despite the real differences in the various human violations considered.

36. What might the Sub-Commission do to overcome all those problems? Firstly, it needed to examine the existing international instruments and consider whether they addressed today's realities or to call on the bodies responsible for monitoring the application of particular instruments to do so, with a view to formulating new optional protocols to existing instruments or new substantive agreements.

37. One example was the International Convention on the Suppression and Punishment of the Crime of Apartheid, which in article II defined the crime of apartheid in terms of policies practised in the southern part of Africa. The reference seemed obsolete in the light of the current transition to democracy which had been acknowledged in item 5 (b) of the Sub-Commission's agenda and might appear to detract from the efforts being made by the authorities in that country to create a democratic society. Similarly, the International Convention Against Apartheid in Sports referred specifically to southern Africa. In more general terms, the Sub-Commission might usefully consider positive ways of rewarding States which had been most successful in defending human rights, by analogy with, for example, the Nobel peace prize awarded to individuals.

38. He wished it to be clearly understood that he was not calling for fundamental revisions of the international legal instruments, which might be more in the interests of those who practised discriminatory policies and would probably weaken international law. Instead, he was proposing that the instruments in question should be updated and necessary amendments and additions made to reflect current circumstances. For example, the

United Nations Declaration on the Elimination of All Forms of Racial Discrimination needed to include provisions relating to the practice of ethnic cleansing.

39. Secondly, the mechanisms available for the implementation of conventions and for monitoring that implementation needed to be overhauled and improved. In doing so, the Sub-Commission needed to ensure that time was devoted to the discussion of the particular problem in question before any attempt was made to discuss ways of combating it. Wherever possible, it needed to avoid duplication, in terms of its discussions and the substance of its resolutions, with the work done by the Commission.

40. Thirdly, given that the Sub-Commission over a number of years had adopted many resolutions concerning, for example, the fight against racial discrimination, segregation and apartheid, the Sub-Commission needed to review which of those resolutions had been acted upon and which had not, issuing reminders to States found to be in violation of a particular Convention until such time as the terms of that Convention had been fully implemented. Without such measures, there was a danger that resolutions would be ignored by everybody except the Sub-Commission itself.

41. Fourthly, he noted that standards in international legal documents tended to be worded in general terms for the sake of greater flexibility, allowing States so wide a scope for interpretation that they were often able to avoid direct implementation altogether. It might therefore be appropriate for the Sub-Commission to put forward a more official interpretation of the international instruments, along the lines of the interpretation of the International Covenant on Civil and Political Rights drafted by Manfred Novak. Such an interpretation would define the legal requirements for a given standard, the legal context in which it was applicable, the sort of actions which would be considered violations, and the consequences envisaged for violations. It should also be possible for the Sub-Commission to decide how that work would be financed and the mandates of the different United Nations bodies in connection with that task, as well as appropriate methods of giving the interpretation adopted official status.

42. Mr. FAN Guoxiang said that the year 1995 was of great significance for the promotion of human rights and fundamental freedoms, since it marked the fiftieth anniversary of the victory of the anti-Fascist forces in the Second World War as well as the fiftieth anniversary of the United Nations. The victory won by the peoples of the world, from countries large and small and irrespective of race, religion, social system or level of economic development, had constituted a decisive triumph of peace-loving and democratic forces over evil, of light over darkness, and of progress over reaction. Upon that basis the United Nations had been founded.

43. The Charter of the United Nations and the Universal Declaration of Human Rights had represented a new development in the concept of human rights, the enjoyment of which had been totally denied to the overwhelming majority of human beings under the savage rule of slave- and serf-owners. The Universal Declaration of Human Rights had solemnly proclaimed that everyone was entitled to all the rights and freedoms set forth in it. In the history of Europe and of the Western world, human rights had formerly been viewed as the rights

of Europeans to win freedom from despotic feudal domination. During the Second World War the cruelty and fanaticism perpetrated by Fascist militarists and politicians, with their massacres of Westerners and non-Westerners, their enslavement of occupied nations and their repression of anybody found to be in their way, had opened the eyes of the world's population to the crucial importance of promoting human rights and fundamental freedoms for all without distinction not only as to race, colour, sex, language and religion, but also to political and other opinion, national or social origin, property, birth or other status.

44. Recently, many countries had commemorated the victory of peace and democracy over fascism. Among the leaders of States, some had condemned fascism and apologised for the sufferings which their country had brought to innumerable victims. It was therefore difficult to understand why the leaders of a certain country were reluctant to acknowledge, honestly and openly, the Fascist role which their country had played. Their ambiguous position could not but arouse suspicions among their neighbours and among many people in their own country.

45. A major event in the post-war period had been the emancipation of dependent nations and peoples from colonial rule. The extension of fundamental freedoms to the bulk of the world's population had ushered in a new era in the promotion of human rights, and the historic victory in the anti-Fascist war had resulted in an unprecedented realization of human rights in the struggle against fascism and colonialism.

46. Unfortunately, respect for, and the promotion of, human rights had become politicized during the "cold war", when everything had been appraised in the context of East-West confrontation. Mutual allegations and accusations had been made for the purpose of blaming opponents rather than serving the interests of human rights. That erroneous orientation could have been expected to cease with the end of East-West confrontation, but unfortunately that had not been the case. The human rights issue had been grossly distorted further.

47. In the first place, the universality of human rights was being misrepresented. Common article 1 of the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights proclaimed that all peoples had the right to freely determine their political status and freely pursue their economic, social and cultural development. It was thus clear that all peoples were entitled to choose their own political, economic and social structure and that such a choice should be respected by outsiders, particularly by big Powers, which should not undermine the choice by imposing another political structure in the name of "human rights". In the variegated world of the late twentieth century it was inadmissible to assert that some political structures were inherently "autarchic" and "totalitarian" while other political systems were automatically regarded as "free and democratic". Individuals or groups working deliberately against the former, even when they committed crimes by whatever means they deemed necessary, were rewarded as "human rights activists", and as self-proclaimed "guardians of human rights" they were entitled to engage in conspiracies against the Governments which they opposed. As a result, they were to be exempted from punishment and protected by the

international community even when they lied unconscionably while calling themselves "prisoners of conscience". Some NGOs had gone very far in describing constitutional Governments as an "established political order", in praising a small number of persons acting against national security and public order as "prominent dissenters" and in asserting that law enforcement was "repressive legislation". It was a pity that such an approach was supported, and on many occasions advocated, by some Governments, which invented terms which did not exist in the International Bill of Human Rights and were reserved for so-called "non-democratic" countries and never used to address so-called "democratic" countries. An artificial classification of 185 members of the United Nations into "democratic" and "undemocratic" could not in any way promote fundamental freedoms; on the contrary it could only lead to "double standards".

48. The right to self-determination was also being distorted. According to General Assembly resolution 1514 (XV), it referred to the right of peoples subjected to alien subjugation, domination and exploitation. The key element was alien rule. Oppressed nations and peoples had a legal claim to self-determination in order to free themselves from colonial rule or foreign occupation, but that should not be twisted into a so-called "peoples' right to self-determination" in order to legitimize a "partial or total disruption of national unity and the territorial integrity of a country", just as State sovereignty could not be replaced by "popular sovereignty". Article 1, paragraph 3, Article 55, subparagraph C, and Article 56 of the Charter of the United Nations had set forth the proper principle in addressing the issues pertaining to human rights in the framework of the United Nations. The attempt to raise the status of the human rights issue to a level on a par with the maintenance of international peace and security and economic development, or to take human rights issues as the supreme criterion of truth did not increase the value of human rights but detracted from and even invalidated United Nations human rights instruments. The implementation of Articles 55 and 56 of the Charter should in no way diminish or deny the basic principles of international law set forth in Article 2 of the Charter. The principles of sovereignty and territorial integrity of States were the very basis of the United Nations. If Article 2 and Articles 55 and 56 had to be taken together, the result would be a gradual fading-away and negation of State sovereignty and an artificial sparkling of human rights in a short flash of transient glitter. The omnipresence and omnipotence of human rights would spoil their credibility. It was the Sub-Commission's duty to ensure that human rights were protected authentically.

49. The Charter of the United Nations emphasized international cooperation in matters concerning the promotion of human rights and fundamental freedoms. Unfortunately, the replacement of cooperation by confrontation was detrimental to the work of promoting fundamental human rights and distorted, for political purposes, their authentic social and moral value. The establishment of a linkage between human rights issues and economic assistance, foreign trade, the origin of refugees, a multiparty system, the privatization of enterprises and relations among nations would inevitably distort the implementation of the International Bill of Human Rights. Likes and dislikes would become a pragmatic standard, and the sublimity of human rights would be relinquished in favour of political manoeuvring. States and Governments whose arms were to be

twisted would be described as having "a bad human rights record". In short, human rights would have been turned into tools for exerting political pressure.

50. Strong reactions to the wilful politicization of human rights issues had been expressed both before and after the World Conference on Human Rights held in Vienna. People cast doubt on any unilateral interpretation of human rights and wished to re-examine a large number of questions. Scholars in Asia had made a number of valuable suggestions concerning the very concept of human rights. An absolute individualism, an unlimited personal freedom and an over-emphasis on human rights to be enjoyed by individual persons would undermine the groundwork on which a modern society rested. The rights of the human community and of a nation should prevail. Relations between rulers and ruled should be appropriately resolved. While benefiting from rights, each citizen of a country was bound to fulfil certain obligations to society. Both democracy and discipline were indispensable. The freedom of the mass media could not undermine the assurance of public order and national security. A balance had to be struck among the social pillars represented by economic development, political stability and democratic legality. A more developed and more stable nation had a more solid foundation on which to promote human rights, whereas poverty plus ultra-liberalism would lead to chaos.

51. A number of respectable experts from the same region were critical of the misconduct of some politicians of a big Power. The punishment of hooliganism according to law had provoked a so-called "legitimate concern" for the "human rights of its citizens" by top-level leaders of a super-Power. However, that super-Power had not hesitated in abducting the President of a small country to a court in its mighty land for a "fair trial". Many Asian countries had openly expressed their opposition to the scrutinization of every Government and even of every Cabinet member in the region by a super-Power in the light of distorted standards of human rights. That was not a promotion of human rights but a return to the outdated idea that might was right. The principled implementation of the Charter of the United Nations and the Universal Declaration of Human Rights would certainly make a positive contribution to economic development, political and social stability, and public happiness, but the distortion of human rights issues would become a destabilizing factor. The concept of human rights was closely associated with the historical and cultural background, social structure and economic development of different nations, different regions and different epochs. Not only Christian but also Buddhist, Islamic, Confucian and other civilizations were contributing to a universal respect for human rights and fundamental freedoms.

52. Thus, in commemorating the fiftieth anniversary of the victory in the anti-Fascist war, it was imperative to keep in mind the major characteristics in the development of basic human rights. The traditional democratic right to be free from the despotism and ignorance of the Middle Ages had been supplemented, after the anti-Fascist war, by more comprehensive human rights that were available to all citizens, rich and poor, irrespective of their political or other opinion or national or social origin, including slaves, indigenous populations and national minorities. The extension of human rights to former colonies, semi-colonies and newly independent nations had been another major step forward following the victory of democratic forces over fascism and colonial rule. The misrepresentation of human rights through

politicization and double standards and through deviations from the original principles set forth in the Charter of the United Nations and the International Bill of Human Rights should be redressed so as to pave the way for a more serious and fruitful study by the Sub-Commission of how to promote human rights and fundamental freedoms in a more rational and equitable perspective.

53. Mr. CHERNICHENKO said that he wished to make a few comments on human rights in the Russian Federation. He was concerned not so much about Chechnya, which was under review in the Commission on Human Rights and where military action had ceased and agreements had been reached, as about the situation in the Russian Federation as a whole, where all social and economic rights appeared to have been lost. He was in no way expressing nostalgia for the previous regime, but he could not help noting the destructive effects of inflation and the unsuccessful attempts of the authorities to convince the public that it was abating. Production was falling, and economic and social rights would not improve until it increased. However, that was unlikely to happen as long as the present mistaken tax policies remained in place. Also, the tremendous increase in the crime rate was still continuing, with Russian mafias being frequently mentioned in the media. Also frightening was the threat to freedom of expression and freedom of the press. A number of well-known journalists had been murdered, and the Public Prosecutor's Office, acting on its own initiative, had recently initiated proceedings against a television programme called "Dolls" which, as in similar programmes in the West, caricatured leading politicians. It was all very sad. The old Russian disease was still there: leaders were in favour of the strict application of the law, but to others and not to themselves. As he had stated at a recent UNESCO meeting in Moscow, Russian society had still not accepted democracy: there were too few honest businessmen, and people voted for leaders whom they happened to like rather than for principles. The Constitution declared the Russian Federation to be a State based on the rule of law, but that was perhaps wishful thinking. Some people might claim that the very fact that he was speaking his mind before the Sub-Commission showed that he was free. He was certainly not afraid to return to Moscow, but he could not help expressing his fears.

54. Another source of concern was the situation of Russian-speakers in Latvia and Estonia. In Latvia there had recently been some positive trends in human rights matters, but there should be no excessive euphoria. Although the legal provisions governing citizenship had been amended, they were still discriminatory. Naturalization quotas had been removed, but the naturalization rate had not increased. The naturalization process took a number of years, and some Russian-speakers would never obtain Latvian citizenship. Moreover, the Latvian authorities failed to observe their own laws. Latvian law recognized the right of association, but the registration of a number of associations formed by Russian-speakers had been rejected. Only recently a Russian citizen had burnt himself to death in Latvia because the authorities had rejected his application for a residence permit.

55. In Estonia the situation was even worse. The new nationality law was even more rigid than the previous one. The relaying of Russian television had been stopped, and the Orthodox Church was being harassed.

56. In response to criticism, representatives of Latvia and Estonia had claimed that a political campaign was being waged against them in the Russian Federation. If that were so, it should be asked why Lithuania was not involved as well. Lithuania was historically linked to Latvia and Estonia and, like them, had a Russian-speaking minority, although on a smaller scale. All Russian-speakers in Lithuania had obtained citizenship, and the question arose as to why the same solution could not be adopted in Latvia and Estonia. The explanation probably was that the authorities of those two countries were trying to squeeze Russian-speakers out.

57. It was important that the 35 million Kurds distributed among a number of different countries should maintain their way of life and have the right to self-determination, although that right did not include the right to form a separate State.

58. Recent years had seen new outbreaks of human rights violations in the world and the politicization of inter-State cooperation in human rights matters. While the Sub-Commission might not be able to remove the causes, it should be able to identify them. He welcomed the fact that agenda item 6 was now the first item to be considered and he hoped to see that arrangement continued. However, he also hoped that the Sub-Commission could discuss ways and means of improving human rights procedures, which seemed to have been receiving less attention than in the past.

59. Mr. EIDE said that he wished to address six issues, namely, the procedure used, cases presented for action, the categorization of phenomena or events, the nature of violations committed, the contexts in which such violations had been committed, and possible responses by the Sub-Commission.

60. The Sub-Commission had tried during the current session to experiment with a new procedure. The basic idea had been a good one, namely, to begin, as early as possible, with cases alleged to amount to gross violations by first listening to the information presented by NGOs, then the replies by Governments. Finally the Sub-Commission members could make their own assessment and reflect on what could be done so that the United Nations could deal with the issues raised.

61. The cases presented for action had given rise to a feeling of impending tragedy, even of complete failure of the United Nations mission in the field of human rights. That was understandable in the light of the horrors of Rwanda and Bosnia. There had nevertheless been many positive developments. Most countries of Latin America, which had been at the forefront of the Sub-Commission's attention a decade earlier, had regained their democratic system, undoubtedly helped by the concern expressed within the human rights bodies of the United Nations. South Africa had been a tremendous achievement; Namibia, even Mozambique, and possibly also Angola were moving out of the spirals of violence. In Northern Ireland, the parties had declared an end to violence and the Governments of the United Kingdom and the Republic of Ireland had established a framework for a new agreement which might bring a much more constructive accommodation of the two major groups living in that conflict-ridden territory. Notwithstanding many difficulties, violence had

not erupted in the multicultural societies of Romania, Slovakia or the Baltic States. That was in part due to constructive involvement by international agencies. In several Asian countries such as Malaysia, constructive accommodation had been achieved within a framework of democracy.

62. What was required was proper analysis of the difficult situations and a search for adequate responses. Non-governmental organizations which were truly devoted to human rights for all could be of great assistance, by exploring ways in which not only the political systems but the underlying political culture could be transformed in such a way that all groups could find their common home within the boundaries of States on a basis of equality and mutual respect. That involved not only government behaviour but the political culture of all groups, including the security forces and opposition groups. The case of Bosnia should suffice to show that human rights violations were committed not only by Governments but in many cases by militant opposition groups such as the militant Bosnian Serbs.

63. Some of the cases which had been referred to the Sub-Commission included, apart from the case of Bosnia, Chechnya and the resurgence of racist behaviour in several West European States and the United States. In Asia the situation in East Timor, in Tibet, Kashmir, Iran, Iraq and Viet Nam had been brought up by non-governmental organizations as well as the tragic eruption of violence in Sri Lanka following the courageous efforts by the new Government of that country to extend its hand in friendship to the Tamil population. In Africa and the Middle East, the very serious case of Sudan had been given attention, as had the human rights violations in the context of unfolding Israel/Palestine relations, and the problems of human rights in areas inhabited by Kurds in Iraq and Turkey. Serious concern had been expressed also about the political developments in Nigeria. In Latin America, the particular problems of Guatemala, Colombia and Peru had been given primary attention. Some of those cases would require the continuing serious attention of the Sub-Commission, when reflecting on what could be done by the United Nations about them. The Sub-Commission must analyse what kind of phenomena it was dealing with, the nature of the violations committed and the context in which they occurred.

64. In earlier years the Sub-Commission had been faced with numerous authoritarian regimes which had prevented normal political participation and used repressive means to prevent opposition. Many, but not all, such regimes had gone. New problems had however come in their wake and those fell into four types of situations.

65. The first, and most obvious, were ethnic conflicts or more precisely, situations in multicultural or multi-ethnic societies which were exploited by ethnic-conflict entrepreneurs, whether originally on the Government's side, as in the case of Rwanda, or on the minority's side, such as the case of the Bosnian Serbs. In cases such as that of Sri Lanka, the origin of the conflict might have been discrimination against the minority in terms of language policy and in other ways but the subsequent exploitation of the dissatisfaction by extreme militant groups, such as those of the Tamil Tigers had made it impossible even with the best of will, even for democratically minded Governments such as the one elected in Sri Lanka in 1994, to achieve a peaceful and constructive accommodation with the militant minority.

66. The primary concern of the United Nations should be to prevent the aggressors from being rewarded for their violence and to prevent similar minded conflict entrepreneurs in other societies from generating the same kind of hatred, xenophobia and intolerance as had been reflected in the massive ethnic cleansing and genocidal actions in Bosnia. In that endeavour, the Sub-Commission must work closely with other United Nations bodies, including CERD; the upcoming joint meeting between those two bodies and the forthcoming world conference should be used to address those issues.

67. A second, and equally important case, was the exploitation of religion for purposes of violence and repression. As had been pointed out by Mr. Lindren Alves, the notion of fundamentalism was a misnomer; what was at stake was the exploitation of religion, comparable to the exploitation of ethnicity, for the purpose of political gain. Europe had experienced such problems over many centuries in the past, with various versions of Christianity exploited for purposes of hatred and conflict; at present, those problems were particularly severe in northern Africa and eastward in parts of Asia, including Afghanistan and Tajikistan. The need to find constructive accommodation of different groups, both adherents of different faiths and of those who were more secular minded, was essential in the quest for human rights.

68. The third type was represented by situations generated by long periods of violence and counter-violence in societies such as Colombia and Guatemala, where the Government might be seeking to move towards the rule of law but where significant sections of the security forces were unwilling to respect the principles of law and order and where in return there were violent opposition groups who committed their own violations. Such Governments should be assisted in finding ways in which the security forces could be brought under democratic control, through appropriate education and socialization, while simultaneously the opposition movements should isolate their militant elements and move towards a peaceful, democratic process of social transformation within their State.

69. The fourth category comprised situations where there remained an unwillingness to permit broad, pluralistic political participation. In some cases there had been elections and then a refusal to accept the outcomes, as in the case of Myanmar or Nigeria. In such cases there might be a need for much deeper preparation for the transition to full democracy. Elections did not solve the problems when the political culture for pluralism was not yet in place; human rights awareness by broad sections of society would be required and it took time to bring that about. The United Nations and its various agencies could help. Much more was required than snap elections in unprepared societies. In that connection he agreed that respect for economic, social and cultural rights must form part of the solution.

70. The fourth point concerned the nature of violations committed. In the past, the Sub-Commission had been concerned with activities carried out by Governments for purposes of repression of dissent and opposition, such as arbitrary arrest, torture, extra-legal execution and enforced disappearances. The United Nations had developed appropriate mechanisms for such violations, including thematic rapporteurs and working groups. What had been added to the list however were much more brutal phenomena such as ethnic cleansing,

large-scale rape, brutal murder of children and indiscriminate killing of the civilian population, amounting in some cases to genocide. Such blatant violations of the most basic rules of civilization had again shocked the conscience of mankind as it had before and during the Second World War. The shock however had not yet been strong enough for the international community to take resolute action. Indecision and uncertainty, including a preference for appeasement rather than action, had again characterized the response to such horrors as those taking place in Bosnia.

71. The contexts in which violations of human rights were committed included situations where there had been an interrupted process of decolonization, such as the situation in East Timor, where its people were prevented from exercising their right to self-determination by the intervention of armed forces from the outside. In other situations, the context of the violence arose during the unprepared transition to democracy, such as in Rwanda, Burundi and in several parts of the former Soviet Union.

72. A factor giving special reason for concern was the role played by the United Nations peace-keeping forces in territories where there was no peace to be kept. The ambiguities, the false promises and the despair which arose when the promises were broken, needed to be seriously discussed with a view to preventing such situations in the future. The introduction of the notion of safe areas, to which refugees flooded in the belief that there was at least one place where they could find protection, and then complete capitulation when the areas were overrun by murderous militant groups, represented such a serious setback to the whole human rights mission of the United Nations that it was essential to protest and demand that such a situation must never be allowed to occur again. Nor could it be accepted, after the painful efforts to build a legal order on the basis of the Charter of the United Nations, that aggression was allowed to be rewarded by allocating land to those who had taken it by force, killed the previous inhabitants or, at best, chased them away.

73. The Sub-Commission must also reflect on new approaches to its handling of the cases presented. Evidence and documentation were essential. In addition to what was available to the Sub-Commission from NGOs and replies, if any, by the Governments concerned, the members should have available additional information, such as the findings relating to the country concerned of the thematic rapporteurs and the Working Group on Disappearances; the observations and recommendations of the relevant country rapporteur, if any; and the observations and recommendations of the treaty bodies. On the basis of such material, the Sub-Commission should choose between different lines of action which might include non-action in cases where it was felt that the case did not reveal serious violations or when it was felt that other bodies were already dealing with the issue in an appropriate way. The second possibility would be to draw the attention of the High Commissioner of Human Rights to cases where available documentation provided an early warning that serious violations might occur in the future. In such cases it might be hoped that the High Commissioner might enter into a dialogue with the Government concerned and offer assistance in remedying the situation. When the case appeared to be serious, however, the Sub-Commission might recommend to the Commission that the Government be asked to invite the thematic rapporteurs and the Working Group on Disappearances to clarify the situation. When the

thematic rapporteurs had been invited and had concluded that significant steps had to be taken to remedy the situation, the Sub-Commission might recommend that the Commission should call on the Government concerned to invite a special representative, not to be regarded as a sanction but as a help, to give advice on how to overcome the difficulties faced by the Government in ensuring human rights for all, including the necessary steps to ensure proper administration of justice and the elimination of all forms of misconduct by security and paramilitary forces.

74. When, in situations where gross and systematic violations appeared to be taking place and the facts had been corroborated by the thematic rapporteurs, the Government concerned refused to cooperate with the United Nations, then and only then should it be recommended to the Commission to establish a country rapporteur.

75. When a country rapporteur had been appointed and had revealed gross and systematic violations by the country concerned, particularly when those amounted to genocide, as in the cases of Rwanda and Bosnia, the matter had reached the level where action had to be taken by the Security Council and the General Assembly. In such cases the Sub-Commission might want to recommend, through the Commission, what steps it considered necessary to bring the massive violations to an end, as it had sought to do and should continue to do in the cases of Rwanda and Bosnia. The Sub-Commission might also want to support the further development of the International Tribunal, by seeking to make it permanent and to reflect on ways in which its efficiency could be improved.

76. Thematically, the Sub-Commission might want to reflect further on what measures had to be taken in order to obtain greater respect for minimum humanitarian standards in times of tension and disturbances and particularly in times of internal armed conflict. In particular, the need to protect the civilian population, and above all women and children, must be given serious attention in the light of the barbarous methods which continued to be used.

77. Mrs. WARZAZI said that the task of the Sub-Commission in the past, which had seemed so difficult at the time, had been child's play compared with the situation in the present-day world.

78. There had undoubtedly been some progress during the current year. In June and July, the rebel forces in Guatemala, during negotiations with the Government, had announced that the peace process in Guatemala was irreversible. The different Timorese political groups had met near Vienna under the auspices of the United Nations and had adopted, by consensus, a joint declaration which had stressed respect for human rights in Timor and for the preservation of the cultural identity of the region. The liberation of Aung San Suu Kyi was a significant gesture by the Government of Myanmar and represented a ray of hope for the Burmese people. The laboriously negotiated amendments to the Turkish Constitution by Parliament would certainly lead to positive results.

79. That progress, however, could not hide the deep disillusionment of the world at the situation a few years after the disappearance of the Berlin Wall. Qualified observers had identified 20 ideological and fundamentalist guerrilla

groups as well as 50 major ethnic conflicts, 70 States threatened by political destabilization, 8 drug- and terrorist-related conflicts and 30 major border disputes.

80. What was involved was no longer a case of the State against the individual but of violations of human rights by States as well as by opposition groups which had chosen recourse to arms instead of dialogue, of atrocities against innocent populations by fanatical religious or ethnic groups often supported from the outside as well as by terrorist groups greedy for power or anxious to maintain their prosperous traffic in drugs and arms.

81. The Sub-Commission should be seriously concerned at the unprecedented wave of hatred and massacres and the refusal to end conflicts by means of dialogue, in many cases encouraged or even initiated by self-styled religious leaders. The priests, mullahs, emirs, rabbis and representatives of religions had found equally dangerous allies in the media which frequently manipulated public opinion by means of political, nationalist, ethnic or religious propaganda.

82. The Mille Collines radio station had sparked off the massacres and genocides in Rwanda and had apparently won popularity in Burundi. But the media that preached hatred were by no means confined to Africa. A media war had in effect preceded the real war in the former Yugoslavia. In other countries, campaigns against minorities and intellectuals were launched by newspapers known for their extreme ultra-nationalist or religious fanaticism. All those conflicts were music in the ears of the arms dealers and traders who had no interest in lessening tensions and confrontations. In consequence, notwithstanding praiseworthy declarations, the sale of arms to the developing countries was flourishing, with no regard being paid to the disastrous consequences for the peoples condemned to ever-worsening poverty.

83. Following the tardy intervention by the International Community in 1994 there had been the semblance of a return to relative calm in Rwanda. Nevertheless, in coming to the aid of the Tutsi victims of genocide, the international community could not guarantee ethnic peace in the country. That had been her fear and she had noted without surprise although with some concern that, in his letter of resignation, the Director of the Cabinet Office of the Prime Minister had stated that the policy of the Rwandese Patriotic Front was based on the domination of one ethnic group over another and had referred to a deterioration of the situation accompanied by summary executions, torture, arbitrary arrests, the paralysis of the judicial system, as well as double-talk regarding the problems of refugees and the repression of the free press. The Sub-Commission could not accept such a situation and should request an inquiry into the matter.

84. It was important to bear in mind that the situation in Bosnia affected Europeans in the heart of Europe who were prohibited from defending themselves against Serb aggression solely because they were Muslims. Their circumstances might force them into extremism if the situation persisted.

85. From the beginning of the conflict, the politicians of certain European States had believed or continued to believe that the only way of preserving a balance of power in the Balkans would be the partition of Bosnia between

Croatia and Serbia. That plan would solely penalize Bosnia with its Muslim population which had hitherto lived in peace with its neighbours. The lifting of the arms embargo would, however, have undermined that plan. That determination to deprive Bosnia of its legitimate right to self-defence, a right recognized in the Charter, constituted a serious attack on one of the most elementary human rights, namely, the right to life. The Bosnian tragedy affected the entire world in that it threatened the whole concept and principle of human rights.

86. The United Nations had lost its credibility when its mission of humanitarian assistance in Bosnia ended in protecting its peace-keeping forces, preventing the lifting of the arms embargo and staying in Bosnia until the Bosnians bowed down to Serb demands.

87. It was regrettable that the United Nations which had merely implemented the decisions taken by a certain number of States had become a scapegoat and that its magnificent contribution of the years, particularly in the field of human rights might well be forgotten. Human rights were increasingly threatened at a time when so much progress had already been made in the codification of humanitarian law and its acceptance by an increasing number of States. Armed conflicts, excessive nationalism, racist xenophobia, religious fanaticism, terrorism in all its forms, ethnic hatred and the complicity of members of the media were phenomena which must be added to the long list of forms of serious human rights violations for which a solution must be found.

88. In conclusion, she wished to congratulate Mr. Eide on his recommendations. The Sub-Commission must never abandon the struggle and must always remember the tragic fate of Bosnia.

The meeting rose at 1 p.m.